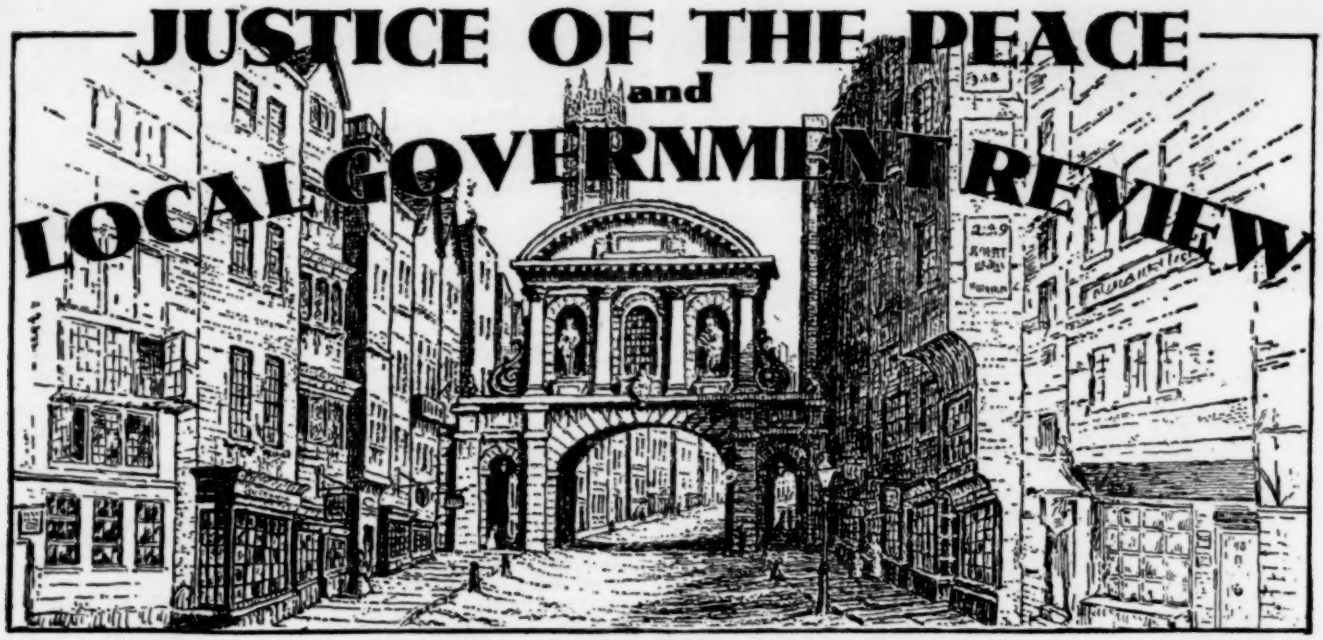
JUSTICE OF THE PEACE and LOCAL GOVERNMENT REVIEW



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NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note :* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

APPOINTMENTS

NEW SCOTLAND YARD : Assistant Prosecuting Solicitor on permanent staff of Solicitor's Department. Ages twenty-four–forty. Salary on appointment £602–£706 according to age. On confirmation £865 at thirty, rising to £1,147 (Pensionable). Particulars : Secretary, Room 139, New Scotland Yard, S.W.1.

SITUATIONS VACANT

BATH—Common Law Clerk required with some experience. Good opportunity for keen young man wishing to advance and prepared to take charge of department. State age, education and experience. Box No. A.21, Office of this Newspaper.

NEW SCOTLAND YARD : Law Clerks on permanent staff of the Solicitor's Department. Ages twenty–twenty-five. Pay from £270 at age twenty to £380 at twenty-five, then by annual increments to £570. Typewriting essential. Opportunities for promotion. POSTCARD to Secretary, Dept. B, S.1 Branch, New Scotland Yard, S.W.1, for particulars and application form.

BRISTOL—Junior Litigation Clerk required with some previous experience. Salary by arrangement. Pension scheme. Write stating age, experience, etc., to Box A. 22, Office of this Newspaper.

LEGAL ASSISTANT. POPLAR BOROUGH Council require Legal Assistant (Solicitor of at least two years' standing). Previous local government experience an advantage. Salary grade A.P.T. VIII. Form of application and conditions of appointment from the Town Clerk, Poplar Town Hall, Bow Road, E.3. Closing date July 16.

BRENTWOOD URBAN DISTRICT COUNCIL

VACANCY for Law Clerk (unadmitted) Grade A.P.T. III £550—£595. Conveyancing experience essential, duties include Local Land Charges. Previous Local Government experience not essential. N.J.C. Conditions. Superannuation scheme. Housing need favourably considered. Applications, naming two referees, to reach me at Council Offices, Brentwood, by July 14, 1954. Canvassing disqualifies.

C. N. BOOTH,
Clerk of the Council.

INQUIRIES

YORKSHIRE DETECTIVE BUREAU (T. E. Hoyland, Ex-Detective Sergeant). Member of The Association of British Detectives, World Secret Service Association and Associated American Detective Agencies. DIVORCE — OBSERVATIONS — ENQUIRIES—Civil and Criminal investigations anywhere. Over 1,000 Agents. Over 27 years C.I.D. and Private Detective Experience at your Service. Empire House, 10, Piccadilly, Bradford. Tel. 25129. (After office hours, 26823.) Established 1945.

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HAMPSHIRE

APPLICATIONS are invited from solicitors with experience in Local Government work for the post of Assistant Solicitor on the staff of the Clerk of the County Council at a salary of £1,050×£50—£1,250. The commencing salary will be fixed in accordance with qualifications.

The post is pensionable and the appointment will be subject to the submission of a satisfactory medical report. In approved cases the County Council are prepared to assist newly appointed members of the staff to meet removal and other expenses.

Applications, giving full particulars of age, education and experience together with the names of two persons to whom reference may be made, should reach the Clerk of the County Council, The Castle, Winchester, by July 12.

COUNTY OF ESSEX

Division of Beacontree

Male Probation Officer

APPLICATIONS are invited for the above whole-time appointment at a salary in accordance with the Probation Rules plus Metropolitan addition £30 a year. The appointment will be subject to medical examination.

Applications, together with copies of two testimonials, must reach the undersigned by July 19, 1954.

H. G. BARROW,
Secretary to the Probation Committee.

The Court House,
Great Eastern Road,
Stratford, London, E.15

EAST SUSSEX CONSTABULARY

Appointment of Assistant Chief Constable

APPLICATIONS are invited for the above appointment under the following conditions :

A candidate must have had previous experience in a Police Force and will be required to devote the whole of his time to the duties of his office.

The salary will be at the rate of £1,200 per annum rising by annual increments of £50 to a maximum of £1,350 per annum. A house will be provided and the successful applicant will be expected to provide himself with a motor-car, for the use of which he will be paid such allowance as may from time to time be approved by the police authority.

The appointment will be subject to the provisions of Police Regulations.

Applications, stating age, experience, present employment and the number of years' approved service in any police force, with copies of not more than three recent testimonials, must be sent under sealed cover, endorsed " Assistant Chief Constable," so as to reach my office not later than July 23, 1954.

Canvassing will be considered a disqualification.

H. S. MARTIN,
Clerk of the East Sussex Standing Joint Committee.

County Hall, Lewes.

SURREY PROBATION AREA

Appointment of Full-time Male Probation Officer

APPLICATIONS are invited for appointment as Male Probation Officer in the Surrey Probation Area.

The appointment will be subject to the Probation Rules, and the salary will be in accordance with those Rules, subject to superannuation deductions.

Written applications, with the names and addresses of not more than three persons to whom reference may be made, should be submitted not later than July 14, 1954. Forms of application may be obtained from the undersigned.

E. GRAHAM,
Secretary of the Surrey Probation Area Committee.

County Hall,
Kingston-upon-Thames.

BOROUGH OF SUTTON COLDFIELD

Legal and General Clerk

APPLICATIONS are invited for the position of Legal and General Clerk in Grade III rising to Grade IV of the A.P.T. Division (£550 to £625). Applicants must possess a sound knowledge of conveyancing and contract law.

The appointment is subject to the provisions of the Local Government Superannuation Act, 1937, a satisfactory medical examination, and one month's notice on either side. Applications, giving age, qualifications and experience and the names and addresses of two referees, must be delivered to the undersigned in sealed envelopes marked " Legal and General Clerk," not later than Thursday, July 8, 1954.

The council are prepared to assist the successful applicant in the provision of housing accommodation, if required. Canvassing, directly or indirectly, will disqualify.

R. WALSH,
Town Clerk.

Council House,
Sutton Coldfield.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

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NOTES of the WEEK

A Problem for Examining Justices

On the trial of a prisoner for felony, he must be present, although it is said that if he creates a disturbance in court the trial may go on in his absence, and he is liable to punishment for contempt of court, *Archbold* 33rd edn., p. 189, and cases there cited.

If he is guilty of violent and noisy behaviour before examining justices, what is the position? By s. 4 (3) of the Magistrates' Courts Act, 1952, it is enacted that the evidence before examining justices shall be given in the presence of the accused, and no provision is made for proceeding in his absence if he makes a disturbance to such an extent as to make it practically impossible for the depositions to be taken.

In *The Justices' Clerk* for June, there is a report of proceedings before the Blackpool justices in which a satisfactory solution to the problem was found. A man named Dawson who was undergoing sentence at the time was brought up under a Home Office order, on a number of charges of forgery. He was violent and disorderly in court, and repeated his behaviour after remand. As it appeared unlikely that the examining justices would be able to proceed, it was decided to apply to a judge in chambers for leave to prefer an indictment in accordance with s. 2 (2) of the Administration of Justice (Miscellaneous Provisions) Act, 1933. The application was granted and a direction given that the bill should be preferred at the Lancashire Quarter Sessions. There he was again unruly and was remanded to the next sessions. Once again he misbehaved. A jury found him mute of malice and the chairman directed a plea of not guilty to be entered. Counsel for the prosecution was opening the case in the absence of the prisoner, when a message was received saying that the prisoner wished to be represented. The prisoner returned to court and behaved himself properly. Sentence was postponed for twelve months.

Although such a situation rarely occurs it is well to know what can be done and to be prepared to deal with the emergency. Both the facts and the law are set out fully in *The Justices' Clerk*.

Strange as Fiction

A novelist could hardly have desired a more sensational story than that which led to the conviction of Arthur Kendrick Ford, recorded in *The Times* of June 19. This was the case where a man administered cantharidin in a fatal quantity to two young women working for the same firm, to one of them deliberately and to the other, apparently, through carelessness. It has been known for centuries that this drug, which has a legitimate place in pharmacy and hairdressing, can be used as an aphrodisiac. The most amazing feature of Ford's case was that he was employed by a firm of manufacturing chemists, which made it possible to get the drug from another employee, and was an " office manager," aged forty-four, and so presumably a man of experience and reasonable education—and yet he took no sufficient steps to discover what was a practicable dose. Though the chemist who obtained the poison from the firm's stores warned Ford that it was particularly dangerous, he mixed into coconut sweetmeats about a hundred times more than could safely have been taken internally under strict medical control.

Ford must be accounted fortunate to have been put on trial for manslaughter and sentenced only to five years. In earlier ages the charge could have been murder, and nobody would have been surprised if Lord Goddard, who described the case as very grave, had dealt out a longer term. Yet another strange thing is that the idea of administering cantharidin with amorous intent, followed by a woman's death, has already been used in a novel called *The Beetle*.

This title referred to the derivation of cantharidin. We have not yet found the book in any library list which we have available, but are informed by a correspondent that he clearly remembers reading it some thirty years go, and that the plot was essentially the same as the story brought out in court in the case of Ford.

I.S.T.D.

These initials, which stand for Institute For the Study and Treatment of Delinquency, are now familiar to all who are interested in criminal science and to many others whose work takes them into the criminal courts. Time was when the majority of people were sceptical about the place of the psychologist or the psychiatrist in the administration of the criminal law. Today it is more generally realized that although the courts cannot delegate their responsibilities to the psychologist and the psychiatrist, they can often accept suggestions from them and can be materially helped in ascertaining the cause of a crime and in deciding upon the appropriate punishment or treatment.

I.S.T.D. has arranged for a summer school to be held at St. Hugh's College, Oxford, from September 18 to 25. The theme is " The Changing Attitude of Society Towards Criminal Responsibility," and the list of lectures and the distinguished lecturers promises an interesting and instructive course. In addition to the lectures there will be visits to institutions and opportunities for recreation.

The inclusive charge for the week is 8½ *guineas*, covering accommodation and all meals, and the full programme of lectures and discussions. In addition there is a registration fee of 10*s.* 6*d.*, to cover administration expenses. *Non-Residents* may enrol for the full lecture programme (including film shows) at a charge of 30*s.* Single lectures : 2*s.* 6*d.* each. Morning or evening series only : 15*s.* each, *Booking Forms* may be obtained from : Assistant General Secretary, I.S.T.D., 8, Bourdon Street, Davies Street, London, W.1.

So far, the activities of the institute in dealing with the question of pathological crime have been limited to attempts to modify the McNaghten Rules. In announcing the forthcoming school, I.S.T.D. states that sociologists, dealing with the problems of crime and punishment on a much wider basis, have succeeded in making the issue one of national importance. The problem cannot, however, be solved on the basis of scientific opinion alone. The various forces which mould and lead public opinion must in the long run, says the announcement, have the last word on the subject.

The main object of the summer school, it is stated, is to widen the methods of team research on the subject, by organizing a symposium at which representatives of the law, religion, moral philosophy, education and social science will seek, in concert with psychiatrists, psychologists and sociologists, to re-define, and if necessary, modify, existing conceptions of criminal responsibility.

An Approved School in Malaya

It is not always easy, sometimes not even desirable to introduce English methods and institutions into countries where the population is of a different race, and has a different way of life, but it is surprising to find how often the introduction of an English system, with modifications and adaptations, can be made to succeed.

We have read with great interest an article in the *Approved Schools Gazette* by Mr. J. Riley, entitled " Sungei Besi Boys' School, Malaya." This school, which was opened last September, accommodates 120 boys, and as they represent the three races of Malay, Chinese and Indian, they must be of several religions. A very few could be regarded as confirmed delinquents, and they had not, like many approved schoolboys in England, been on probation. Severe emotional maladjustments, mental subnormality and educational retardedness are not major problems.

" The most distressing family circumstances and deprivation do not seem to produce the degree of emotional upset that one would expect from similar circumstances in England. A tentative theory is that this may be due in part to the fact that the child-parent relationship has in it a large element of authority as well as affection. This is also reflected in the fact that control is not difficult, the boys accepting the rule of authority without question. A large percentage of our boys are typical ' care and protection ' cases."

There is an overwhelming demand by the boys for learning and new experiences, which must certainly be a source of pleasure to the teachers. Evening classes are over-subscribed and have a waiting list, and cultural and social needs of the three races are catered for.

Trade training departments comprise tailoring, carpentry and cabinet-making, and agriculture and animal husbandry. In addition a small number of boys with the necessary educational standard go out from the school daily to adjacent workshops and offices to train as clerks, mechanics and electricians. There is a pocket money system of bonus and rewards linked with the progress and behaviour of the boy similar to that operating in many schools in England.

It is planned to give the boys more responsibility as the school develops, on the lines of English approved schools, and thus to fit them for future duties of citizenship. One boy, recently released from the school, has gone for training as a novice monk in a Buddhist temple.

A pleasant incident was the discovery that a soldier of the Somerset Light Infantry, one of those who visit the school to conduct the weekly boxing club, was an old boy of an English approved school.

London Sessions Probationers' Fund

The county of London Sessions must be the busiest court of quarter sessions in the country, and it is only to be expected that there should be plenty of work for probation officers, eleven of whom are attached to the court. Many probationers need assistance in some form which is not always payable out of public funds. Voluntary subscriptions and donations maintain a fund which is called the London Sessions Probationers' Fund, and we have before us its report for 1953, signed by the learned Chairman, Mr. A. W. Cockburn, Q.C.

At the end of the year 505 cases were on probation under the direct supervision of the officers of this court and there were forty-two corrective trainees on licence also under their supervision. In addition there were 122 cases on probation to officers outside the County of London.

At the bi-monthly meetings of the committee, particular attention is paid to those cases to whom grants have been made. The need for such grants, which are not made when public funds are available for the purpose in view, is often only too plain. Many of the probationers are without means, and often there has been a period in custody resulting in the accumulation of debts and hire purchase agreements not being honoured. Sometimes a new home has to be set up and clothing obtained in order to give the probationer and his family a fresh start. This is where the fund comes in. It is reassuring to learn that of the 200 persons who received assistance from the fund, only eleven relapsed into crime. As the report says : " It is a matter of conjecture what would have happened if this Fund had not been available to provide well timed assistance when an attempt was being made to rehabilitate a probationer at a stage when he was most susceptible to the suggestions of hardened criminals about him."

Subscribers have been generous with money, books and clothing, and special mention is made of gifts from the metropolitan magistrates. In the nature of things, however, the fund loses some of its old subscribers and therefore new ones are needed. Evidently the fund is doing good work and using its resources wisely. It deserves support.

Litter

We were glad to read that the conference of Women's Institutes had taken up the question of litter in streets and elsewhere. It might be asked if they could really do anything about it : the answer surely is that they represent an enormous number of women, and that if all of these made it their business, in home and everywhere else where they had the opportunity, to use their influence to promote habits of tidiness and to point out the ugliness and sometimes the danger arising from the thoughtless practice of throwing down paper, cartons, tins, bottles, orange and banana skins, there would be a gradual improvement.

Schools can, and we believe do, try to make children clean and tidy in their habits, but grown-ups are the worst offenders.

It has been suggested that coach parties might be entreated by notices to refrain from throwing things out while travelling, and from depositing litter on the scene of their picnics. This also may help, and we repeat that where it is possible to catch offenders in the act and to prosecute, the imposition of suitable penalties could have a restraining effect.

The expense of clearing away rubbish from parks, seaside promenades, riverside and other places of public resort, after bank holidays and at week-ends, is staggering. Practically all this money could be saved, and the town and the countryside could be unspoiled, if only people had better manners and would take a little trouble to avoid litter by carrying away bags, cartons and other material with them to dispose of it at home. We have referred to this before, but we think the matter is so important as to justify a return to it.

A letter to *The Times* deplores the amount of litter left behind on Fellows Eyot at the Fourth of June celebrations at Eton, and many people have seen similar lapses in local parks and recreation grounds during the Whitsun holiday. In pleasant contrast, there was news of a marked improvement in the Royal Parks in London, following upon appeals to the public, showing that something can be accomplished by perseverance.

Rent Service

There was a backward look at historic English law in *Montagu* v. *Browning and Browning*, *The Times*, June 19, 1954. In Norman times, a freeholder held his land by virtue of liability to perform service worthy of a free man ; typically this was military service, but it could take other forms. In course of time, the military or other service was usually commuted to a rent, in money or in kind. It is easy to understand that the overlord might prefer a certain amount of money or money's worth, with which he could hire competent soldiers or servants when required, rather than the right to call personally upon tenants who in the nature of things can seldom have been noticeably competent as soldiers. But the rent which took the place of personal duty was still properly " rent service " and there was no inherent impossibility about the Crown's letting land to a freeholder, or a freeholder's letting it to a tenant, in return for performing services. This is what had happened in the case before us, where the Court of Appeal held that a tenant so holding was protected against eviction by the Rent Restrictions Acts.

We do not feel confident that Parliament intended this ; in *Hornsby* v. *Maynard* [1925] 1 K.B. 524, the Divisional Court held that the references to the standard rent and to other conditions of tenancy in the Rent Restrictions Acts, which are all in terms of rent in the ordinary sense, ruled out rents other than pecuniary. Even so, we have had to advise in countless cases where it had to be considered whether the person in occupation of a house was there by virtue of a contract of employment, which obliged him to live in the house in order to carry out his duty (a lodge keeper is a typical example), or by virtue of a contract of tenancy, the tenancy having been granted to him because there was also a contract of employment. In the latter type of case one of the distinguishing features usually is that the tenant pays a money rent, even though this is often fixed at a lower amount than would have been fixed if he had not been an employee of his lessor. If there is now to be recognized (at least for purposes of protection from eviction) a type of contract of tenancy under which the rent is paid by way of labour, the lawyer's task in distinguishing these contracts from contracts of service, under which the employee is entitled to a house to live in, will be difficult indeed. In particular, will it be open to the dismissed employee to hold on to his house and say: "I am ready to go on rendering my services by way of rent, and am therefore entitled to stay in the house I occupied"? We can see scope for a good deal of argument. It seems strange that in the case before us the legal aid committee refused a certificate on the ground that the ex-tenant had no *prima facie* case to put forward. The Court of Appeal unanimously held that case to be not only arguable, but convincing.

Crichel Down

The report of the inquiry ordered by the Minister of Agriculture into the disposal of land at Crichel Down seems likely to become a document of important significance in the history of agricultural bureaucracy and the country will be grateful to Sir Andrew Clarke, Q.C., for the lucid and impartial manner in which he conducted the inquiry. The hard-pressed Minister of Agriculture has discharged to the utmost his loyalty to his official subordinates and has stated that he considers no further action is necessary to deal with the civil servants who went wrong. He has even gone on to say that having considered the observations and explanations of the civil servants criticized he had formed " a less unfavourable view of many of the actions taken by those concerned than appears in the report."

This observation has led to a storm of protest. Nobody knows what were the observations and explanations given to Sir Thomas Dugdale who must, however, be within his rights in contending that departmental disciplinary action is entirely a matter for him.

On the other hand, there is a striking contrast between observations and explanations made by those concerned privately to their Minister and similar statements made publicly at an inquiry which are subject to cross-examination by counsel and to normal judicial rules. This probably accounts for much of the out-cry against the Minister's decision. It offends the precept that justice must be seen to be done. Certainly the facts as found by Sir Andrew Clarke, Q.C., seem sufficiently disquieting.

It appears that the government departments concerned reached a financially unsound decision to equip and let Crichel Down (725 acres) as a single self-contained farm unit. Although this decision was formed upon insufficient grounds and without sifting the matter with due care, once formed the decision was prosecuted with an astonishing singleness of purpose and disregard for the fair claims of individual landowners. In fact, it was only the determined persistance of one of these landowners, Lieut.-Commander Marten, that enabled the whole matter to come before the public gaze.

Not only were the preliminaries to the decision surrounded with " the passionate love of secrecy inherent in so many minor officials " but material facts were not properly brought to the attention of the Minister when he was asked to make up his mind on the matter. When it is considered that a Minister presiding over a large government department must necessarily rely upon the impartial efficiency and powers of judgment of his responsible officials to give him a fair presentation of all the facts then there was a serious failing here. But besides illustrations of muddle, inefficiency and lack of liaison on the part of government departments, there are other and more obnoxious features in the report which it is even more difficult to condone. For example, there is the " highly improper suggestion " on the part of a senior civil servant that something might be done to mis-lead the applicants for the land into thinking that their applications had received due consideration. This suggestion was too readily accepted by another senior civil servant and together with certain other officials they pursued an attitude

of hostility towards Lieut.-Commander Marten who was only seeking to defend his moral rights as an applicant for the land. This was carried to the extent of one of the senior civil servants pursuing an unnecessary and improper inquiry into the circumstances in which Lieut.-Commander Marten had obtained licences to build certain cottages, with the result that it was made (quite falsely) to appear that the latter had been attempting to deceive the Ministry of Agriculture. Such conduct smacks of spite and certainly falls below the standards which the public are entitled to expect from responsible civil servants.

One thing at least emerged from the inquiry on the credit side for officialdom and that was that there was no trace of any corruption or dishonesty, on the part of those concerned. Altogether it is a story of muddled administration, errors of judgment, pig-headed obstinacy, and transparent attempts to cover up errors by subterfuge and even petty spite.

Inevitably in any large organization some mistakes of this type occur and there is no doubt that the element of regional delegation complicated matters more than is normal. At the same time the state has imposed a tremendous weight of long-distance decisions upon Ministers and it remains to be considered whether some of this should not be removed from them.

The British Civil Service has justly achieved a high reputation for level-headed integrity and disinterested advice and when this high standard is not fully maintained by senior members there is bound to be considerable public concern as to whether these standards are falling.

We do not feel that this is so but the nation cannot afford to take any risks in so vital a matter and public opinion will not only expect a searching investigation into the administrative defects exposed in the departments concerned but the publication by the Minister of Agriculture of the substantial reasons which led him to take a different view of the conduct of the civil servants concerned, from that adopted by the learned Q.C. who conducted the public inquiry and reached his conclusions after hearing all the evidence.

SURREY QUARTER SESSIONS RECORDS OF THE SEVENTEENTH CENTURY—II

By ERNEST W. PETTIFER

(*Continued from p.* 403, *ante*)

The neglect of highways, bridges and watercourses brought many people before the Surrey justices, and there were many cases of obstruction of the highways. Important people figured in the courts lists from time to time, probably in the capacity of Lords of the Manor. His Grace the Lord Archbishop of Canterbury was presented for not repairing " his part of the wharf at Stone Gate for the space of three rods." His Grace was also presented for " not keeping weights and measures in the market according to custom ". (The situation of the market is not stated.) The Queen Dowager, Henrietta Maria, was twice presented in respect of Woobourne Bridge at Chertsey, and twice for allowing " Crockford Bridge leading from Pyrford towards Chertsey " to be out of repair. In each case the court respectfully expressed the opinion that Her Majesty " ought to have it repaired whenever necessary."

The Countess of Peterborough who had not repaired nor scoured the common sewer leading from the borough of Reigate to Parke Pound Head, but allowed it to be so full that it overflowed on to the common highway to the grave nuisance of the liege people of the King, etc., was discharged upon production of a certificate showing that the work had been carried out. The Lady Hester Gaynsford of Lingfield, widow, had not " scoured a watercourse there in Rowland's field " nor " made a gutter hogge to carry water to that field ". The note made by the clerk of the peace says that she admitted the offences and was fined 2*s.* for each.

Lord Chandos of Egham allowed ditches in a lane to overflow owing to lack of attention. The offence was a commonplace one in those days, but the lane was lifted out of the commonplace because it ran from Windsor to "Runninge Meade" (Runnymede).

That those of high position could and did appear before the justices to seek redress for wrongs, as well as answer to charges made against them, is shown by the two cases brought by the Archbishop of Canterbury, the first against three men for robbing his fishponds at Croydon, and the second against a man on suspicion of stealing rosemary from His Grace's garden there. There is also the case brought by the Countess of Peterborough against three men who forcibly broke into the close of her ladyship at Reigate, and " there riotously plucked and carried off her walnuts growing there, in evil example," etc.

All quarter sessions records of the seventeenth century bear witness to the problem created for justices by the excessive number of licensed houses, and to the many disorders allowed by licensees. These Surrey records are no exception to the rule, and it is evident, from the batches of offenders presented from time to time that the justices periodically made efforts to bring some of the offenders to justice. For example, twenty-four persons appeared at the Reigate Sessions (April, 1663) to plead to charges of keeping alehouses without licence. The fines imposed ranged from 6*d.* to 10*s.*, but the justices were not always so lenient, the standard fine being 40*s.* In some cases, also, the court suppressed the houses, and ordered that the signs should be pulled down.

At the Reigate sessions mentioned above a general complaint was made to the justices concerning the disorders at Wandsworth —unlicensed keepers, unlawful games, the harbouring of robbers and burglars, and their protection from prosecution. Thirteen alehouse keepers were suppressed. A complaint by the " Ministers, churchwardens, overseers of the poore, and divers other inhabitants of the parish of Battersea " concerning the great number of alehouses in that parish, and asking that they might be reduced, was referred by sessions to two justices, who were given power to decide how many were necessary and to suppress the rest.

Occasionally a petition is recorded which relates to a single house. The minister and inhabitants of West Horsley petitioned on the ground that the one alehouse belonged to the Church and had produced a valuable rent used for the repair of the fabric, but that one Pikeman had lately obtained a licence to keep another alehouse to the great detriment of the parish. (Referred to "the next two justices that did not licence the said Pikeman" who were desired to examine the contents of the petition and to suppress Pikeman if they should think fit). John Coe of Shalford, a licensed victualler, " being a young man and fit for other employment" was suppressed, there being other fitter persons,

for keeping victualling houses within the parish. William Bourne " of Redhill in Walton-on-Thames, victualler " was suppressed for obtaining a licence " by some indirect means," and the overseers, churchwardens and constables of Lambeth reported, in another case, that Walter Hythersale of Lambeth Deane had " surreptisiously obteyned " his licence, whereupon the said Walter was also suppressed. On the other hand,when the inhabitants of Caterham petitioned that Mary Rabbet, a poor widow, might be licensed (probably because she had no means and was likely to become chargeable) the justices recommended her case to the next two justices with a hint that the licence might be granted.

There were many presentments of licensees for allowing unlawful games, and the presentments usually followed a stereotyped form such as the following : " Thomas Bennett of Caterham, December 1, 1661, and often times before and since, illegally allowed in his house there various unlawful games, namely, cardes, dice, tables and shovell groate for his monetary advantage and profit to the great disturbance of the neighbours, in evil example, against the statute and against the peace ". Ninepins (sometimes called " cayles ") appear to have been, also, within the definition of unlawful games. There is one mysterious reference to a game called " Ockay ". In nearly all cases the offenders claimed trial by jury, and there is no record of the penalties imposed by the justices, but in the cases of five licensees presented for allowing unlawful games during the hours of divine service on Sunday one man was fined 1*s.* and the other four were discharged, decisions which appear to indicate that the justices did not take a very serious view of this class of offence.

It would seem, from a record of January, 1662, concerning a licensee of Peckham, and two of Newington, that on Sundays the closing hour for licensed premises was 10 *p.m.*

Amongst the entries in the Order books there are many relating to petitions presented to quarter sessions by persons brought to poverty by fires and other disasters. It is evident that the court dealt with such applications with considerable sympathy, but with due regard to the necessity for legal proof of the loss sustained. A Bagshot innkeeper lost his barns, outbuildings and stacks by fire, and estimated his loss at £300. The case was referred to two justices, who took evidence on oath and were satisfied that the story was true. Robert Ward of Ockham, a husbandman, lost twenty-nine horses within two years, was unable to cultivate his land, had his goods seized by his creditors, and stated that he was in danger of prison unless relieved. Certificates were put in from the minister and inhabitants of his own and neighbouring parishes, and the petition was supported by justices in court from their own knowledge. Four inhabitants of Wandsworth lost houses and goods to the value of £541 6*s.* 4*d.*, their story being supported by several justices and others. Thomas Burchett of Weybridge, butcher, petitioned that he was in sad straits. A fire destroyed his shop and slaughterhouse, his barns and stables, of the value of £500. He contracted debts in order to maintain his wife and children, and finally spent a long time in the gaol at Kingston. Certificates were put in from justices, the minister and chief inhabitants of Weybridge, " all of which premises were thoroughly examined and closely considered " by the court.

In all these cases the justices presented their own petitions to the Lord Chancellor, the Earl of Clarendon, praying for His Majesty's " letters Patents for a Breife to receive and collect the Charityes and Benevolences of all well disposed people in the County of Surrey." There is no record of the results of these efforts by the justices to assist the distressed petitioners, but at least they did their best to secure aid for the sufferers. Cases of rather less serious nature were dealt with in another way. William Weller of Capell, for instance, who " in the great Thunder and lightninge of the 23th (*sic*) of Aprill 1662 had six Oxen and two horses suddainly burnt to death with seaven Loads of hay together with Carts, Waynes and other implements of husbandry thereunto belonging amounting to the value of one hundred pounds " whereby the petitioner and his family were likely to come to ruin, was referred to the charity and benevolence of the county of Surrey. All ministers were required to publish the contents of the petition to their congregations and to exhort them to " free and charitable contributions ".

A similar course was taken in the case of Francis Holt of Frimley, who lost his horses and was four times robbed (his loss £220), and in the case of Nicholas Scriven of Chipstead, who lost his house value £60, but, in the latter case Scriven was given permission to collect in his parish and in adjacent ones.

The fact that Holt (possibly a small farmer living at a lonely farm) could be robbed on four occasions might lead to the inference that there was extreme lawlessness at this period (1662), but such an inference is hardly borne out by such county records as are available. Possibly, if and when the quarter sessions minute books come to light, it may be found that the state of crime was serious, but numerous entries in the order books do show that there was a great deal of what may be termed insubordination in these early years after the disappearance of the Commonwealth, and when the monarchy was being re-established. There were assaults on constables and bailiffs, and threats and abuse directed at the justices themselves. Amongst those who were brought before the court was the inevitable quaker " who kept his hat upon his head " and was fined 5*s.* for setting a bad example for less worthy citizens to follow ! There were attacks on churches (Reigate parish church had its windows broken and there was an armed raid on Farnham Parish Church). On the other side of the account, there are the long lists of religious offenders for not attending church, holding illegal assemblies, and the many ministers for not holding services in accordance with the ritual and customs of the Church of England. No change of government could be expected to bridge those deep divisions between the sects and the established church, but it must be said that the Surrey justices, from the records before us could not be accused of being either vindictive or provocative. There are presentments of individuals and small groups of people for " Using reproachful words " to justices ; for " peremptorily abusing " them ; for " behaving insolently " before them, and for " rude and contemptuous demeanour " before the court. It was the custom for local justices to hold a preliminary inquiry into cases of felony, but there are minutes reporting that accused persons had contemptuously refused to be examined.

This insubordination was not directed only against the justices for there are charges of using threats against His Majesty (Charles II) and his bishops, and dangerous words against His Majesty. A Southwark man was bound over to answer a charge of threatening and discouraging soldiers while doing their duty, and threatening their captain. Many persons appeared before the court for refusing to do watch and ward at night. Twenty-five persons appeared in one batch at Kingston in October, 1661. They came from many parishes. Fourteen were discharged (probably on promises to obey in future), one was fined 2*s.* 6*d.*, and the other results are unrecorded. There is no evidence here of undue severity by the justices. A woman in another case was fined 6*d.* Women were evidently expected to take their part in the duty of keeping watch and ward for there are several cases in which they were prosecuted for failing to do so. As these women were described as widows, it seems probable that the duty of keeping watch and ward fell upon them as householders. Any householder could provide a deputy but at his own expense.

(To be continued)

THE EXPERT WITNESS

By PAUL T. W. BUTTERS

Witnesses may be divided into three main groups :

(1) The truthful ;
(2) The untruthful ; and
(3) The expert.

Happily, we can ignore the thousands of sub-divisions of groups (1) and (2) for we are concerned only with (3)—and the expert witness would, no doubt, be the first to admit that he is important enough to be placed in a category all by himself, for this type of witness is not, as a general rule, remarkable for his modesty.

The expert witness can be roughly described as one who knows (or believes he knows) almost everything about his own particular subject, and nothing whatever about anything else. Ask an analytical chemist, for instance, whether, in the study of carbohydrate metabolism by chromatographic absorption methods there is a strictly linear correlation between enzyme concentration and oxidation product and he will have his answer pat. But ask him who won the First Division of the Football League last year, or who skippered the Australian Test Team on their last visit to this country, and the odds are that he won't know. Unhappily, it is not always easy to disclose his ignorance on these vital matters, for questions about football and cricket are not encouraged when, for instance, you are defending a farmer for watering his milk.

Yet the advocate is not quite at such a disadvantage as you might imagine when cross-examining the expert. It is rarely that he is called upon to make such a tongue-twisting inquiry as the one about carbohydrate metabolism, and his strength lies in the fact that it is usually easier to ask a question than to answer it ; and it is surprising what a good show an advocate can put on with a little superficial knowledge mugged up the night before and which (if he is wise) he will almost certainly forget before the day is out. Half the time, he may not quite understand what he is talking about, but if carefully phrased, his questions will sound impressive enough, and sometimes he will find, with a little shock of surprise, that the expert knows no more about it than he does himself. If the expert is a sensible man, he will admit his ignorance and make the best of things but, more often than not, his vanity will get the better of his good sense and he will be delivered into his cross-examiner's hands. If pressed, he will grow dogmatic—not to say dictatorial—and assume a knowledge of his subject that mortal man can hardly be expected to possess : and since he is only a mortal man (though some experts obviously have some doubts about that) a jury or a bench of magistrates will begin to wonder whether he is quite as knowledgeable as he obviously thinks he is.

The expert is the only witness who is allowed to express an opinion. Lesser men, like you and me, who don't pretend to be experts about anything in particular—with the possible exception of the runners at Hurst Park next week—have to confine ourselves to hard facts, the expert being considered the only man who can think for himself. Yet, as every schoolboy knows to his cost, there are exceptions to every rule just to make it more difficult, and there are even some to this one. Two of them immediately spring to the mind. In this hysterical age, where everything is done with a feverish haste, we are all deemed to be experts on speed and we are permitted to give our views on the number of miles a particular motorist would be likely to cover in sixty minutes. Naturally, a normal pedestrian of any experience at all can hardly avoid being an expert on speed nowadays, whether he has actually driven a car or spent the best years of his life trying to avoid being knocked down by one. But the fact remains that on no subject do the experts differ so widely as in their assessment of speed. No self-respecting motorist who ever stepped into a witness box, whether he be the defendant himself or the unfortunate chap he knocked through the hedge, ever drives more than two feet from his nearside kerb or at a speed of more than twenty-five miles per hour. If, on the other hand, the pedestrian he hit for six takes the view that he was driving on his wrong side of the road at *fifty*-five miles per hour, he is perfectly entitled to say so, and the only reaction he is likely to get is an occasional raising of an eyebrow from the bench and an animal cry of protest from the defendant himself.

The other exception arises in the case of policemen, who are generally accepted as experts on drunkenness—not, of course, their own (for such a thing would naturally be unheard of—in uniform, anyway), but other people's. If you and I see a chap with his overcoat on back to front, singing a doubtful version of a popular song, and steering an erratic course from one side of the road to the other like a ship in a heavy sea before finally giving up the unequal struggle all together and sinking gently into the gutter, we may very well have certain suspicions about his condition. If, in addition, he has an empty whisky bottle in each hand, those suspicions might become certainties. In a word, we would be prepared to swear on a stack of Bibles that he is as tight as an owl. But we are not permitted to say so : that would be much too presumptuous. Unless we happen to be a policeman, we are only allowed to describe what we saw and leave it to greater brains than ours to resolve this complex problem and decide whether he was actually drunk, or whether he was having a fit or doing it for a bet or something.

The expert witness whom the advocate meets more frequently than any other is the medical one, and if he practises in a magistrates' court, his usual job is to satisfy the bench that the medical gent is wrong when he says that the defendant was under the influence of alcohol when he did his car a bit of no good by running into a lamp post which never should have been there in the first place. To his credit, it should be said at once that this type of witness usually does his job very thoroughly before arriving at his conclusions. One might almost say that he *over*does it, for anyone earning one hundred *per cent.* marks in his examination has not only established his sobriety but qualified for a job in a travelling circus. The entrant for this stringent test starts by trying (but rarely succeeding) to walk a straight line, but—and this makes it more interesting—he is invited to do it heel to toe the whole way ; he is asked to stand perfectly still with his eyes closed without swaying like a field of corn in a gentle breeze; he is required to pick up coins of varying sizes from inaccessible spots on the floor without turning a somersault or dislocating his neck ; he is urged to make rude gestures with his finger to his nose in a way that would not be tolerated for a moment in polite society. In fact, he is asked to do everything except actually climb up the wall. His tongue is examined and found to be coated (but the doctor uses a longer word than that) ; his eyes are scrutinized and found to be blood-shot (and the doctor uses even longer words to describe that) ; his memory is tested (and he finds he hasn't got one any longer) ; so are his reflexes (he hasn't got any of those either)—and, finally, as an anticlimax, he is asked to write down his name and address. By this time, it is surprising that he can write at all, and if his

signature is a little illegible that is hardly to be wondered at. Incidentally, judging from the hand-written reports we get from most of them, if any doctor was asked to undergo the latter test himself he would almost certainly be damned out of hand.

Yes, it's a pretty stringent examination, and if the unhappy patient isn't drunk at the beginning of it (as, unfortunately, he nearly always is) he certainly will be by the end.

Cross-examining in this type of case is usually as easy as it is ineffective—and here, I think, is the time to make a frank admission. It has always been my ambition to flout all the conventions and ask the doctor to submit himself to his own tests, there and then (which usually means well before opening time) and see what sort of a mess he makes of them. But I confess with shame that, though I have been practising for more years than I care to remember, I have up to now lacked the necessary courage to put my theory to the test. Perhaps I shall steel myself to do it just once—immediately before my retirement.

The Achilles' heel of most experts is their vanity, and their love of technicalities, using ten words (most of them difficult ones) when two would serve equally well. If, for instance, that client we have just been discussing had a " black eye " instead of a bloodshot one, the doctor, choosing his words, with care, might say that " there was considerable ecchymosis under the orbit caused by extravasation of blood beneath the cuticle." But he would still mean that your client had a " black eye " and nothing more, as, of course, the advocate would point out to him as gently as he could.

From the moment he steps into the box, the expert assumes a confident air which is designed to impress and frequently (but by no means invariably) does. But whatever effect (if any) his demeanour has on others, the last person he is likely to impress is the lawyer who is about to cross-examine him—and for a very simple reason. The lawyer is presumably deemed to be something of a legal expert himself, and if he happens to be an honest one (and there are such beings, whatever you may hear to the contrary) he will be very conscious of how little he really knows of a subject which he has spent a lifetime trying to understand. It is surely not unreasonable to assume that experts on other subjects have their own limitations as well?

So the cross-examiner should face his job with a stout heart, conscious as he is of the fallibility of man. Handwriting experts will talk for hours about the downstroke of an " f " or the curve of an " a," and wax positively lyrical over a particular type of semi-colon; surveyors will tell you all about quantities, and cubic and every other kind of feet except those you put shoes on; county analysists will tell you the exact contents of a legal sausage with such a wealth of detail that you will never dare to eat another as long as you live; doctors will tell you so much about your interior mechanism that you will be driven to the conclusion that you haven't very long to live; and the psychiatrist (and he is probably the most fearsome of the lot) will talk for an hour by the clock and tell you precisely nothing. In a word, if you accept what these expert gentlemen tell you at its face value (as they obviously expect you to do) you will be a very worried man indeed.

But, of course, you don't. What you do, in fact, is to call another expert to give evidence for your side and contradict everything the first one has said. And that, of course, is a great comfort to everybody—except the expert. And serve him right.

THE NATURE, SUBSTANCE, QUALITY OF FOOD

By ROLAND FITCH, *Barrister-at-Law*

Since the statutory minimum under the defence regulations for the meat content of a sausage was abolished in March, 1953, there have been a number of prosecutions under s. 3 of the Food and Drugs Act, 1938, alleging too small a proportion of meat. What the proper proportion is has caused some difficulty in various magistrates' courts and the reported cases show that proportions varying between fifty *per cent.* and seventy-five *per cent.* have been accepted in different courts. In spite of the view taken by some of the lay press this matter is no nearer clarification since the recent decision by the Divisional Court in *Williams* v. *Hurrills Stores Ltd.* (*The Times*, May 6). It was agreed in that case by the prosecution and the defence that sixty-five *per cent.* was the proper proportion of meat in pork sausages, and that the sausages in question only contained a proportion of fifty-five *per cent.* Here on the evidence the sausages were clearly deficient. Any subsequent case will depend on evidence called and the Court has not laid down that any fixed percentage is the minimum on which all prosecutions should be based.

The Ministry of Food have considered the advisability of setting a fixed standard but in a written reply to a Parliamentary question on June 15 the Minister of Food said that the re-introduction of compulsory standards of meat content would not be justified at present but he would keep the position under review. Meanwhile a further point of interest arises. In some instances the prosecution have laid three separate informations under this section, alleging that the sausages were (*a*) not of the nature . . . (*b*) not of the substance . . . (*c*) not of the quality demanded, in that they contained too small a proportion of meat; and have sought convictions on each.

The case of *Bastin* v. *Davies* [1950] 1 All E.R. 1950, 114 J.P. 302, was one in which this section was considered by Lord Goddard, C.J., and he drew particular attention to the fact that a defendant was entitled to be told what the prosecution were alleging; that is whether the article in question was said to be not of the nature or not of the substance or not of the quality demanded. He referred to and accepted the views of the learned editor of *Bell's Sale of Food and Drugs* that " substance " would include matters where there had been adulteration of an article. The note (*e*) at p. 94 of the 12th edn. of that work was mentioned, and the Lord Chief Justice said that when a statement had appeared in a well-known text-book for a great number of years and had never been dissented from by a judicial decision it would be most unfortunate to throw doubt on it after it had been acted on by justices and their clerks for so long.

The statement to which he was referring is as follows:

" It should usually be possible to decide which of the three words is most appropriate to use in an information and to use that word only. Thus apples or fish not of the variety or kind asked for are not of the 'nature' demanded. For articles not containing the proper ingredients or containing some added adulterent, 'substance' is perhaps the most appropriate word to use although in many cases quality would also be fitting. If preserved eggs are sold as new laid eggs the word quality would seem apt. In any event the summons should not be for selling food 'not of the nature, substance or quality.'"

The case of *Moore* v. *Ray and Another* [1950] 2 All E.R. 561, 114 J.P. 486, has been quoted recently as authority for laying informations based on more than one of the causes of action

created by s. 3. The Lord Chief Justice in that case again pointed out that there were three separate offences created by the section and that the prosecution if they were in doubt could lay more than one information. In proving the facts leading to the prosecution, it does not follow in all cases that each offence has been committed, and the Lord Chief Justice did not say that all three informations should be persevered with—two points which the Courts have overlooked.

There is no doubt that all three offences could be committed on the sale of one article; for example, if sausages were sold as pork sausages and they were found to contain beef, instead of pork, and a forbidden colouring matter, and to be rancid.

Here the beef in the "pork sausages" would cause them to be not of the "nature" demanded; the colouring matter as an adulterant would cause them to be not of the "substance" demanded, and, obviously if the sausages were bad, they would not be of the quality demanded. This clearly would be a case in which it would be proper to proceed by way of three separate informations and on the facts being proved a conviction on each would be reasonable.

But the reported cases show that the practice is sometimes rather different. Where the complaint is only that the meat content of the sausage is too low, more than one information has been issued and magistrates, on finding the facts proved, have been asked to convict on each offence. This, it is submitted, is not a proper practice, and the course which should be followed is for the court to decide which of the offences has been committed.

It is clear, applying by analogy the illustration in *Bell's Sale of Food and Drugs* which the Lord Chief Justice accepted in *Bastin* v. *Davies*, that a deficiency of meat in a sausage does not change the "nature" of the article. The deficiency in meat in a sausage clearly affects the quality of a sausage and also its substance. But where an article is defective in one characteristic only it is surely unfair that this should constitute more than one offence. It means that a court could if it thought fit impose twice or even three times the maximum fine for the single error of manufacturing sausages with too small a meat content.

In these cases the prosecution should proceed by way of the single information alleging that the goods were not of the quality demanded and it is only where there is a genuine doubt as to which offence has been committed that they should issue more than one information. If this is done it is then the duty of the court to give due consideration to each summons and to dismiss those inapplicable. They should not say that they have "taken them into consideration," as the county magistrates at Kingston-on-Thames stated in the case reported at p. 312 of the *Justice of the Peace and Local Government Review* of May 15 last.

NEW POLICY OF TAXATION IN NIGERIA

By S. O. OMOREGIE

As Nigeria is becoming more civilized, so are public services expanding with the passage of time, while the national expenditure is correspondingly increasing. As civilization continues to expand, new sources of revenue must therefore be found.

Among the sources of revenue by which the local governments are maintained have been the rates and duties levied on users of the various vehicles, imported and exported goods, water rates, and many other types of public levies. The amount of these levies varies from town to town, depending largely on the discretion of the various local governments.

As time went on, it became necessary to supplement the different sources of the revenue. And in 1918 "direct taxation" was introduced under which the "flat rate" system of taxation was employed. The flat rate tax is a uniform rate payable by male adults irrespective of the degree of wealth or poverty of the person concerned. In some part of the Western Region, the flat rate tax was begun at 2*s*. per head, but it has risen gradually to 12*s*. in 1953. However, women were exempted from any taxations, though they were denied this privilege in some areas.

This system of flat rate taxation continued, and later bred a jealousy between the poor and the wealthy. So there was an attempt by the poor to resist payment. However, it was later found necessary to introduce a new system of taxation, thus the "Income Tax" was introduced, which is now the main source of Nigeria's revenue. Now there are three systems of taxation, the flat rate tax which is applicable more to the poor and the income tax applicable to the wealthy. Nevertheless, the whole system of levying rates and taxes in Nigeria needs improvement, particularly in the assessment of an individual's income and the various allowances given with respect to the actual expenditure incurred in earning the income. The third system is the "capitation tax".

Since the "Capitation Tax Bill" was passed into law recently in the Western Region, there have been tax crises, which swept through many towns and villages. Tax evaders demonstrated against payment by streaming into the houses of men in authority, damaging doors and windows, and smashing cars of State Ministers. Armed policemen and soldiers were drafted here and there, arresting tax defaulters. Under the guard of soldiers, the rulers and the councillors drove in cars while making slogan of "Pay Your Tax" through the loudspeaker. An organized opposition to the payment of the tax, here known as "Aiye Peju Society", was formed and resisted the guards.

The society's activities were so prominent that it led to closing down of the Native Courts and the entire suspension of the local government's activities. This was the situation until the Governor, Sir J. S. Macpherson, G.C.M.G., issued a proclamation under s. 3 of the "Peace Preservation Ordinance", calling for delivery to local officers of firearms held by unauthorized citizens. The Governor later declared the "Aiye Peju Society" an illegal organization under s. 62 of the Criminal Code.

"Capitation tax" is an annual rate collectable by the Central Treasury from sub-treasuries in the provinces. This rate is computed on the numerical strength of the taxpayers. Originally, 6*d*. per tax collected was the due from each sub-treasury, but the new Bill increases it to 10*s*. 6*d*. in one stretch. However, the main object of the increase in the capitation tax was to improve and maintain education and health in the region. It is now understood that, by 1956, free elementary education to children will begin and more hospitals will also be built.

However, the population of the area in which the tax disturbances have occurred was 213,000, and the whole capitation tax accruable from them was approximately £23,000. The cause of the complaint of the people was not because they were asked to

pay the capitation tax, but because of the system of assessment, which the people described as "arbitrary assessment". In fact, the actual cause was the lack of an adequate explanation far enough in advance, as to why the tax increase was necessary.

Nevertheless, Mr. Obafemi Awolowo, Minister of Local Government, told the legislature at its last session that about ninety-six *per cent.* of the population of the Western Region had paid their levies, after having had explained the object of introducing the capitation tax at public meetings and local council assemblies. The task was undertaken by the Minister himself and Sir Hugo Marshall, the Lieutenant-Governor of the Region.

Under the Eastern Local Government, taxation differs slightly. At the last sitting of the legislature, Sir Clement J. Pleass, Lieutenant-Governor of the Region, told the legislature that a new tax will only be imposed after adequate explanation. The House was further informed that new taxation was necessary to maintain the various local government services: that is, to raise the standard of living of the people, to confer municipal status on the larger townships, to introduce the universal adult suffrage system of election to local, district, and county councils, as well as to the regional and central legislatures, to open new and develop old roads, water supplies, schools, hospitals, agriculture, and laboratory services. All these services can only be maintained by increasing the original rates and taxes, a fact well known to local government students.

The Minister of Local Government, Eastern Region, Dr. Nnamdi Azikiwe, also informed the legislature that he had warned the local government councils not to impose rates and taxes which the people cannot pay, and that before imposition of any levy the advantages to be derived from it must first be explained to the people.

In the Northern Region, there was not much taxation trouble, except a complaint lodged before the Resident by a group of petitioners charging the local council with tribal discrimination in the assessment of tax. The petitioners urged the local government council to reassess the current taxes, and grant them representation on the tax assessment committee. The matter has, however, now been settled by the Lieutenant-Governor of the Northern Region.

MISCELLANEOUS INFORMATION

LOCAL GOVERNMENT OFFICERS IN CONFERENCE

At the recent conference of the National and Local Government Officers Association the national executive council reported on measures taken to secure the adoption of salary scales and service conditions recommended by the Joint Negotiating Committee for the Chief Officers of Local Authorities. Of the local authorities to whom the recommendations are applicable, 1,146 were stated to have adopted them or others not less favourable, leaving a balance of only fifty.

The grades concerned are accountants and treasurers, engineers and surveyors, chief education officers and architects in charge of departments. The salary scales operative from April 1, 1952, were revised from April 1, 1953, by the addition of sums ranging from £25 to £50 a year. Similar increases were approved for town clerks and district council clerks through the separate joint negotiating committee dealing with their conditions of employment.

The executive council commented on the appeals machinery open to officers of this status and remarked that it was much less satisfactory than that provided by the National Joint Council for administrative, professional, technical, and clerical staff. The machinery for settling differences cannot be set in motion unless both sides agree; in practice, the report added, the results had been disappointing.

A scheme of salaries and service conditions for chief officials in Scottish local government was drawn up during the year. It applies to town clerks, chamberlains, county treasurers, directors of education, assessors, transport managers and such departmental heads as architects, engineers, or surveyors. The salary scheme follows the pattern now common for staff of such positions, comprising prescribed minima and maxima varying with population and leaving it to the individual authority to decide which of two salary ranges is applicable to the circumstances of its area.

The executive council's report contained an informative section summarizing the history of the measures taken to raise the educational level of local government officers in this country, stressing the part which NALGO has played in the process. NALGO made representations in favour of adequate standards of recruitment both to the Royal Commission on Local Government of 1929 and to the Hadow departmental committee on local government staffing which followed from the recommendations of that commission. The association subsequently pressed for the implementation of the proposals of the Hadow committee which ultimately took shape in the National Joint Council's National Charter of 1946.

The schemes of the National Joint Council, which include the establishment of the Local Government Examinations Board, are under constant review. At the NALGO conference in 1953 the national executive council were asked to seek an extension of the examinations recognized by that Board as alternatives, to its own for promotion purposes within the local government service. The executive, reporting this year, told of the steps they were taking to secure the inclusion in the list of approved alternatives, of the examinations of two secretarial organizations but at the same time they placed on record once more their wholehearted support of the examinations board's highest examination—that for the Diploma in Municipal Administration. The executive said that they would be lacking in responsibility if they failed to emphasize that irreparable harm would be done if the conference took any decision implying the withdrawal of support from this examination: the acceptance by all classes of authority of an examination specially designed for staff employed on general administrative work, brought to fruition (they maintained) a policy developed over forty years which should not be lightly cast aside.

In reporting on recent agreements reached by the National Joint Council the executive council dealt at some length with the new measures for the recruitment of graduates for general administrative duties in local government. The case follows the lines of the Hadow report which stressed the value of university training as a preparation for administrative work. Graduates direct from the universities are to be regarded as "trainees" and are not to form a privileged class; the numbers recruited should not be such as to prevent their being assimilated into the ordinary A.P.T. ranks nor to block the promotion of those who enter direct from school and take the prescribed promotion examinations.

One of the main problems for local authorities is to find the salary point which will attract graduates to their service. The National Joint Council prefer to leave this to individual authorities but suggest that the minimum should be at A.P.T. grade I (£490 a year) proceeding to the minimum of A.P.T. grade II (£520 a year) after one year's service, with normal advancement in that scale.

The conference, while welcoming the entry of graduates into local government, expressed some apprehensions about the effect upon the prospects of staff already there. A motion was passed instructing the national executive council to formulate a clear policy to safeguard the interests of existing officers. Supporting this, a delegate maintained that the scheme of recruitment as it stood was bound to create a privileged class in the local government service; young men of ability coming in from grammar schools would find their promotion blocked by graduates.

A general criticism of the working of arbitration tribunals was expressed in a motion brought before last year's conference and remitted to the national executive council for examination. It expressed the opinion that awards made by various arbitration tribunals bore little relation to the merits of the claims and that representations ought to be made with a view to (*a*) requiring tribunals to give reasons for their awards and (*b*) preserving their impartiality. The executive dissented strongly from the view that tribunals were anything but impartial, believing that they had a difficult job and did it conscientiously. They cited the Government's *Industrial Relations Handbook* for evidence that tribunals were in no way subject to governmental influence—a statement which they said was confirmed by their own experience. Nor did they believe that any advantage would accrue if the tribunals gave reasons for their findings; in support of this belief they mentioned that this had not been the practice of appeals committees of joint councils on which NALGO members sat.

The conference accepted the report without comment. Turning to the negotiating machinery it adopted motions calling for a speeding up of procedure so that increases in pay should not be withheld until "long after they are due."

THE COUNTY COUNCILS' ASSOCIATION

The annual report of the County Councils' Association shows that there is no lessening in the work which has to be done by the various associations of local authorities as the focal point for the consideration of matters of principle, which are raised by their constituent members, and in discussing with Ministers of the Crown and government departments proposed new legislation and the need to amend existing legislation and departmental regulations. In these days of continued shortage of newsprint, it is unusual to see references in the national daily press to the activities either of local authorities or of their associations unless there is something more or less sensational to report. It is just as well therefore that the County Councils' Association should now make a practice of inviting representatives of the technical local government and the national press to attend meetings of their executive council, and we agree with the hope of the association that the creation of increased facilities in this way should work to the advantage of local government.

The annual report is divided into sections corresponding with the committees which undertake the detailed work of the association and we have only space to refer to some of the items which may be of particular interest to those of our readers who do not see the association's *Gazette*. Some of the matters mentioned in the section on children and welfare were referred to at the recent conference which we reviewed at p. 342, *ante*. On boarding out, however, attention is drawn to the danger of bringing any kind of pressure to bear on children's officers which might result in children being boarded out with unsuitable foster parents or in circumstances where boarding out was not in their best interests. We are sure this is sound advice which we hope will be heeded where there may be danger of excessive zeal to increase the percentage of boarded out children in any area, almost leading to the view that there is something inherently wrong in having a children's home at all. Turning to another point, a matter which sometimes concerns magistrates, is the settling of the contribution to be paid by a parent towards the cost of maintaining his children who are in the care of the local authority. The Select Committee on Estimates suggested that the Home Office should consider giving more detailed guidance to local authorities as to the scale of payments to be used whenever it is feasable to require contributions from the parents of children in care. It was considered, however, by the local authorities that any suggested scales should be issued by the associations and accordingly a joint working party now have the matter under consideration. Another paragraph of the report draws attention to a weakness of the law as to the responsibility of a parent for his child. This was a case in which an unmarried mother who was admitted to a county home with her two-week old infant absconded leaving the child. There is now no provision for the issue of a warrant for the arrest of a person for leaving a child chargeable in such circumstances and, since the child had become the responsibility of the Children Committee, there was no possibility of taking proceedings under s. 61 of the National Assistance Act, 1948. Furthermore, no action could be taken under the Children and Young Persons Acts as the child could not be said to be neglected and it was very doubtful whether proceedings against the mother would be successful under s. 10 of the Children Act, 1948. The association decided to make representations to the Home Office for the introduction of legislation to amend s. 1 of the Children and Young Persons Act, 1933, so as to make it a misdemeanour wilfully to abandon a child without making prior provision for its maintenance.

On the care of the aged, the association have, like others, not yet found a satisfactory solution to the problem of how best to provide for the welfare of those who, whilst not so ill as to require admission to hospital, nevertheless are in need of nursing and medical care which cannot be provided in ordinary old people's homes. The matter is being further pursued as the association are conscious of the need for very extensive research and inquiries before any sound conclusions can be reached or recommendations made on this vexatious problem; they are also well aware of the sad plight of many aged and infirm people and hope to be in a position to make concrete recommendations in 1954 which will lead to a betterment of their lot.

SOUTHEND AND ROCHFORD MAGISTRATES' COURTS

Mr. Homfray Cooper, clerk to the justices for the county borough of Southend-on-Sea and for the Rochford Division, says in his report for 1953 that the number of cases, far from showing a welcome reduction, showed an increase, though it was not startling. There was, however, a substantial decrease in the number of juvenile offenders.

The keenness of justices to increase their knowledge and to keep up to date in all matters relating to their duties, which is an encouraging feature of many reports, and which is stimulated by their clerks, is shown by the following paragraph:

"Throughout the year efforts were made to keep the justices in touch with the latest decisions affecting their work and new legislation both by means of circulars and also the more intimate atmosphere of our discussion group. During the winter, meetings were held monthly and interest in them was stimulated by the attendance on the majority of occasions of justices from our neighbouring bench at Grays. At the same time a number of our justices accepted the invitation of the Grays justices to attend their monthly meetings. These meetings are on the whole very well attended and prove extremely interesting and helpful both to the justices and the court staff."

The books in the justices library have continued to be widely read, and acknowledgment is made to those justices who have added to the collection.

EXPENDITURE PER HEAD OF POPULATION

In continuation of a useful series the Society of County Treasurers have recently published a return showing the estimated expenditure per head of population by county councils falling to be met from rates and grants in 1954/55.

The average for English counties is £15 6*s.* 4*d.* per head; for Welsh counties the corresponding figure is £18 8*s.* 9*d.* Hampshire spends least with a figure of £13 6*s.* 11*d.*; in England the highest expenditure is in Huntingdon at £19 4*s.* 10*d.* while in Wales Radnor reaches £27 13*s.* 7*d.*

There are two main factors which account for differences of the sort we have quoted. The first relates to the education service, expenditure on which accounts for fifty-five *per cent.* of the total. Average expenditure per head in England and Wales is £8 12*s.* 4*d.*, but with the one exception of Flint (£8 12*s.* 6*d.*) the Welsh counties are well above this figure. Teachers' salaries account for so large a proportion of education expenditure that variations in the pupil teacher ratio affect costs enormously as these examples show:

County	*Number of pupils per full-time teacher employed on February* 1, 1953 *in primary schools*	*Estimated expenditure on education per head of population* (1954/5)
		£ s. d.
Hampshire	34	6 7 9
Surrey	35	7 17 10
Cardigan	18	12 11 4
Monmouth	25	10 19 3

The other main reason for varying costs rests in expenditure relating to highways and bridges. While the average for the two countries is £1 14*s.* 7*d.* a head numerous rural counties are compelled to spend a great deal more than this: consider for example the following:

	£ *s.* *d.*
Hereford	3 13 4
Huntingdon	3 12 8
Norfolk	3 7 7
Brecknock	3 13 11
Cardigan	6 2 9
Montgomery	6 18 2
Radnor	7 4 1

It is figures of this kind which the rural counties use as the basis of their argument for an increased sparsity weighting in equalization grant calculations.

BRADFORD POLICE REPORT

Reports of chief constables may be divided into two classes: those which contain a great deal of statistical information in the form of tables and graphs and with a minimum of comment, and those which, usually with rather less statistical information, include some statements of opinion and perhaps criticism. Each kind has its own merits. The report of Mr. H. S. Price, chief constable of the city of Bradford, belongs to the former class, and the statistics are well presented. The number of indictable offences known to the police during the year was 2,767. This figure represents a decrease on the previous year of 557. A table shows that since 1948 there was a progressive decrease in the number of indictable offences known to the police up to 1950, that during 1951 there was an increase, and that since 1951 the progressive decrease has continued. Juvenile crimes decreased from 405 in 1952 to 276 in 1953, the lowest figure during the period 1948-1953 with the exception of 1950 when it was 261. Proceedings for drunkenness numbered 679, which was an increase of 116 on the previous year.

In most reports we find the special constabulary is much below strength. The position in Bradford seems unusually discouraging. Membership at the beginning of the year was 594, and at the end of the year 463.

REPORT OF THE DERBY CHILDREN'S COMMITTEE

This is the fifth annual report of the committee, and it is possible to look back on the work already done and to test the results of the policy pursued. Mrs. F. Riggott, chairman of the committee, states : " The aims which the committee sought to realize were simply defined : better knowledge of the children, better accommodation and extension of the system of care in private families. Every year the results were carefully surveyed as a measure of progress. After five years the trends are sufficiently marked for the committee to be sure that they are gradually approaching the realization of these aims."

An increase in the number of child care officers enabled the committee to overcome difficulties in finding suitable foster homes, and the percentage of children in care in foster homes was gradually raised to 51·2.

Although the number of children coming to the notice of the department has increased, the number actually in care at the end of 1953 was only 215, compared with 225 when the Children Act, 1948, came into force, this being the result of the policy of not receiving children into care if relations or friends could make suitable arrangements for them instead. As in 1952 numbers of children discharged from care, especially those whose care was taken over by relatives or guardians, showed a healthy relation to admissions. On the other hand, some children have been in care for one to five years.

It is generally recognized that small homes are better than large. What can be done at little cost is shown by the following : " A house for sixteen children in two semi-detached houses was converted into two homes each providing for seven or eight children. The cost of this conversion was only £45. It was soon apparent that it was easier to find suitable staff for the smaller homes and that the children were much more contented."

The happy relationship often established between children and foster parents is illustrated by the facts that some are adopted and that others remain with their foster parents after they have ceased to be in care. Examples are given of the surprizing improvement in some of the girls who had seemed rather a problem, and of one it is said : " She just needed affection." Many people will be astonished to read that there is always a waiting list of prospective adopters and the average waiting time is between a year and eighteen months.

HASTINGS POLICE REPORT

The responsibility of a police constable and the need for intensive and continued training are well stated by Lt.-Col. A. G. Cargill, chief constable for the county borough of Hastings, in his annual report for 1953.

" In no other service that I know, do the members of the lowest rank carry so great a responsibility—that of making important decisions on the spot and without reference to any higher authority.

"This applies not only to the experienced constable, but equally to the young man straight from Training School. Our job is to enforce laws dating from 1328 to the present affecting the liberty of the individual. From his first day on the beat to the day of retirement, every policeman must constantly keep abreast of changes in legislation."

It is unfortunate when strain is added to responsibility. In Hastings, the authorized establishment is 127 but the actual strength at the date of the report was 117, and many men have to be detailed for administrative and other duties, leaving only eighty-nine to perform the duty of policing the town itself. This has meant strain and worry covering the beats for twenty-four hours. There has been no improvement on 1952 in this respect. In spite of this, Col. Cargill records a year of success, partly due to further mechanization and partly to the good work of the men in shouldering additional responsibilities. Able assistance was given by the special constabulary reserve who worked more man hours than ever. Crime showed a reduction on the previous year's figures, and the report comments : " Our near return to pre-war conditions as far as crime is concerned is creditable in these days.

The problem of road traffic seems to have been dealt with on the principle of giving advice and warning in cases of minor offences rather than by wholesale prosecutions. " Four thousand, five hundred and ninety-four ' on the spot ' cautions were given to road users by mobile officers (1,438 more than in 1952) and 605 offences were reported—an increase of 181. In addition to personal cautions, under the ' Blue Label Advice/Caution Scheme,' 1,026 notices were affixed to motor vehicles, drawing the drivers' attention to minor legal infringements and asking for future co-operation."

In spite of the increasing volume of traffic on the roads, the total accident figure was 405, one less than in 1952. Child casualties dropped to sixty-three in 1953, a decrease of nine.

Relations between police and public cannot fail to be the pleasanter when the police show their willingness to take part in charitable work. Here is a paragraph from the Hastings' report : " We continue to assist children of poor families who are in need of shoes and clothing, and last Christmas we were able to distribute toys which had been given to us by our kindly public for known deserving families."

REFUSE DISPOSAL

In these days of increasing costs the collection and disposal of house refuse is a great problem. Many householders used to dispose of their refuse themselves but with the increasing use of tinned foods and the general practice of using gas or electricity for both cooking and heating the proverbial dustbin contains little so-called " dust " but is a receptacle for all kinds of household refuse and sometimes garden refuse. The local authority may make byelaws with a view to assisting in the work of removal but these do not affect the volume to be dealt with. " Tipping," or now " controlled tipping " is the most common method of disposing refuse but a local authority may not tip refuse on any land in such a manner as to cause a nuisance. Sometimes an urban authority deposits its refuse on tips which are within the area of another local authority. The *Sussex Daily News* has commented on a special problem in this connexion which has arisen in the thickly built-up areas of West Sussex and has suggested that the position is rapidly becoming one of " You can't put your muck in our dustbin ; our dustbin's full." There are natural objections to the tipping of refuse in a residential area. Responsible authorities believe, however, that something must be done in this area within the next two or three years or the position may become intolerable. There are some beauty spots which it would be wrong to use as tipping grounds and a large part of the South Downs is also unusable because it is in the Brighton Waterworks Protection Area. Some local authorities have considered taking the refuse out to sea, as we believe is already done in some parts of the country, but it is considered that the expense involved with loading and the distance to be travelled from the shore would be too great to make this method practicable. Meetings have been held between various authorities and the Ministries of Agricultural and Housing and Local Government. The West Sussex county council is interested as the authority for town and country planning and in this capacity may give or refuse permission for tips or dumps to be provided. One of the great disadvantages of tipping is that putrefying refuse gives off sulphuric acid which might pollute streams and affect milking herds some miles away. The county council seems to take the view that the best solution would be to establish a joint disposal plant for the use of all local authorities in the area but this can of course only be accepted as a policy if all the local authorities agree and in this matter the county council has no powers but can only advise.

NORTHAMPTONSHIRE POLICE REPORT

Captain R. H. D. Bolton, chief constable for Northamptonshire, begins his report for 1953 on a cheerful note " The strength of the force is at long last showing healthy signs of increasing towards the permitted establishment, with the result that for the first time I can report that I am enabled to arrange supervision of the county in such a way that a patrolling policeman is occasionally seen in those newly built-up areas of urban districts where, in the past, such an arrangement was an impossibility."

For the year under review the figures for crime within the county, show a decrease of 108 compared with the figures of recorded crime for 1952, the total number of crimes recorded being 1,474. Detections were 56·43 *per cent.* an increase of 8·39 *per cent.* as compared with the previous year. Captain Bolton is rightly disturbed at the increase in the number of persons found to be under the influence of drink when in charge of a motor vehicle, and he expresses himself strongly on the question of punishment.

Housing continues to be a difficulty and unfortunately a number of probationary constables are living apart from their wives and families owing to difficulties in obtaining lodgings. This, as many reports show, is one of the discouragements to recruiting and a cause of resignations.

Absconders from two approved schools in the county have been a source of some anxiety and have been responsible for a certain number of crimes. The total number of absconders was 102, which seems rather high.

The authorized establishment of special constables was 825. On December 31, the actual strength was 548. During the year there were thirty new entrants and forty-eight resignations, so the position is not encouraging.

NATIONAL INSURANCE

Under s. 39 (1) of the National Insurance Act, 1846, the first quinquennial review of the National Insurance scheme was required to be made as at March 31, 1954, and it is understood that the work will proceed during the current year. According to the report by the Government Actuary for the year ended March 31, 1953, the total number of persons in respect of whom contributions were payable during the year increased by under 100,000, the number being 23¾ millions, comprising about sixteen million men, three million married women and nearly 4¼ million single women. There were about 21¼ millions working for employers, nearly 1½ millions were self-employed, and about half-a-million were non-employed contributors.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 50

A LICENSEE ACQUITTED OF SUPPLYING INTOXICATING LIQUOR AFTER PERMITTED HOURS

Mrs. A, the wife of a licensee, appeared before the Newport county borough justices earlier this month, to answer four summonses that she did supply intoxicating liquor to certain named persons, in certain licensed premises, otherwise than during the permitted hours, contrary to s. 100 (1) (*a*) of the Licensing Act, 1953, and in respect of four further charges that she did unlawfully aid and abet four named persons to consume intoxicating liquor, otherwise than during permitted hours.

Her husband A was charged (in respect of four offences) that he did, by his agent supply to four named persons certain intoxicating liquor, otherwise than during permitted hours.

The four persons named in the above summonses were also charged with unlawfully consuming.

With the consent of the prosecution and the defendants all the cases were taken together, and the defendants all pleaded not guilty.

The prosecution alleged that at 11.20 *p.m.* on a night in May, the police saw a motor coach stop by the licensed premises and that a number of people alighted and went in. Later a police sergeant and a police constable went into the approachway of the premises and found the door leading into the inside locked. They saw a light inside and heard the sound of voices. At 11.35 *p.m.* a man opened the door and the police entered and in the bar they saw Mrs. A and certain other persons, including the four defendants, against whom the charges of consuming were preferred, and that they had glasses of intoxicating liquor near them, which they acknowledged belonged to them. Mrs. A informed the police that she had given the defendants a drink but no money had been taken, and they were waiting for a car. One of the other defendents said that no money had been taken and that they had been friends of Mrs. A for years.

The following day the licensee was interviewed by the police. He stated that his wife assisted him and looked after the business when he was at work or in bed. He further stated that on the previous day he had been at work all day, and went to bed at 10.30 and that the first he had heard of what had happened was the following day.

On behalf of the defendants it was stated that Mrs. A in company with some twenty-six other people on the night in question, went to a darts match in a neighbouring village and returned home by motor coach, some of the passengers being dropped off on route. When the motor coach reached the licensed premises the remaining people alighted and one of the persons concerned agreed to take some of the persons there by car to a neighbouring town. The car was parked at the back of the licensed premises. The persons concerned went into the licensed premises to wait for the car. Mrs. A then gave the four defendants a drink. There was no question of any money being taken therefor.

It was stated that three of the four persons concerned were personal friends of Mr. and Mrs. A, whilst the fourth defendant assisted in the bar of the licensed premises. The licensee and his wife had been to their private houses and they had in turn previously been entertained by the licensee and his wife. The licensee was in bed when his wife returned and he was not disturbed that night. It was stated that the consumers had previously been to parties in which the licensee and his wife were concerned where theywould have had drink without paying for it and the licensee had known of this. Mrs. A gave the persons their drinks and the licensee would be responsible for the cost thereof and would pay the same into the till.

The licensee in evidence confirmed that he was in bed at the time in question and that the first he had heard of the incident was the following day ; that he knew the four persons concerned as personal friends and had been to their private houses. He further said that Mrs. A was in order in supplying on his behalf the drink to the four consumers without asking him, and if he had been present he would have offered them a drink.

Certain of the consumers were called to confirm that they were personal friends of the licensee and of Mrs. A.

On behalf of the defence the attention of the court was drawn to the provisions of s. 100 (2) (*c*) of the Licensing Act, 1953, and it was contended that all the consumers were private friends of Mr. A and and that they had been *bona fide* entertained by him at his own expense. It was agreed that the onus of proving that the consumers were *bona fide* guests was on the defence. The court was referred to the decision of *Jones* v. *Cockroft* [1945] 2 All E.R. 333, and in particular to the judgment of Cassels, J.

After consideration the justices directed that all the charges be dismissed.

COMMENT

This decision is of interest for it brings to the foreground the case of *Jones* v. *Cockroft*, *supra*, and raises the question of how far the decision in that case should be accepted by a court as an answer to what otherwise would appear to be a clear contravention of s. 100 of the Act.

It will be recalled that s. 100, after prohibiting in subs. (1) the sale or supply of intoxicating liquor in licensed premises or a registered club, except during permitted hours, provides in subs. 2 (*c*) that no offence shall be committed where the intoxicating liquor is provided for consumption on licensed premises to private friends of the licensee, *bona fide* entertained *by him* at his own expense, or the consumption of intoxicating liquor by persons so supplied.

Until *Jones* v. *Cockroft*, *supra*, it was the general belief that the similar provision in s. 5 (*c*) of the Licensing Act, 1921, limited the privilege to the licensee himself and that if the supply was made by any other person, even the wife of the licensee, an offence would be committed.

Jones v. *Cockroft*, *supra*, it will be recalled, was the case in which members of a band playing at a public house who helped to clear up at the conclusion of a dance were given drinks long after the terminal hour by the assistant manager of the house who was not the licensee. Evidence was forthcoming that, upon previous occasions the licensee himself had given members of the band drinks in the same way and at the same time and that there was every reason for the assistant manager to suppose that, if the licensee had been present, he would have given them drinks upon the occasion in question.

It is to be noted that Cassels, J., in agreeing with the judgment of Humphreys, J., dismissing an appeal against an acquittal by the justices, said " I think that the decision of this court upon this case is entirely upon the peculiar facts and it is not to be taken as any authority for stating that any servant of a licensee may entertain his friends, at his expense even, after permitted hours, and a licensee will be liable under s. 4 of the (1921) Act if by any servant or agent he supplies during non-permitted hours. The facts in this case are very peculiar."

The writer ventures to hope that courts will be chary of extending the decision in *Jones* v. *Cockroft*, *supra*, for if a tendency to do so arises it will be possible to drive a coach and horses through s. 100 (1).

(The writer is greatly indebted to Mr. R. J. Rowlands, clerk to the Newport (Mon) justices, for the full information he has given in regard to this case.) R.L.H.

No. 51

MORE CHARGES UNDER S. 100 LICENSING ACT, 1953

At Stockport magistrates' court recently charges under s. 100 of the Licensing Act, 1953, were heard. Before the court were two friends of the licensee of a local public house charged with taking beer from licensed premises after permitted hours. The licensee was also charged with aiding and abetting each of the offences.

For the prosecution police evidence was given that the two friends came out of the public house more than an hour after closing time, each carrying a bottle of beer. A police sergeant said that his attention was attracted to the men because one had a bottle sticking out of his pocket.

For the defence it was stated that there was no case to answer. It was urged that the two men were friends of the licensee, one of them was leaving the district and they had called to say goodbye. Each bought a bottle of beer five minutes before closing time and after closing time they stayed on to talk over old times. The submission of no case was based upon the fact that after buying the beer the men had gone off the licensed premises into the licensee's living room.

The submission was overruled and the defending solicitor then said that he would not argue the case further because " it gets even more technical as it goes on." When the men came downstairs from the living quarters they would have to pass along a passage, where it was possible for people to stand and have a drink.

" I will not pursue the point " said the defending solicitor " although this passage is only about two feet six inches long, it would probably be argued that it is part of the licensed premises."

The defending solicitor said the case would serve as a salutary reminder to licensees in the district of s. 100 of the Licensing Act, 1953. He said it was a common thing for a man to take a bottle of beer home for his wife " as a token for letting him go out."

The court decided to convict and imposed upon the two friends and the licensee fines of 20s. each.

COMMENT

The writer does not think that anyone can have any serious doubt that the court was right in overruling the submission of the defending

solicitor. It is true to say, as was said in this case, that some of the provisions of s. 100 of the Act are not well known. Section 100 (1) (*b*) provides that no person shall, except during permitted hours, consume in, *or take from* licensed premises any intoxicating liquor. If, as was said in this case, it is in fact a common custom for husbands to take home bottles of beer to their wives as a form of peace offering for neglecting them during the evening, it should be made known to such husbands that the cost of placating their wives in this manner may be a high one, for by s. 100 (3) a maximum fine of £30 may be imposed.

R.L.H.

REVIEWS

Stone's Justices Manual. Eighty-Sixth Edition. By James Whiteside, Solicitor, Clerk to the Exeter Justices, and J. P. Wilson, Solicitor, Clerk to the Sunderland Justices. London: Butterworth and Co. (Publishers) Ltd., 88 Kingsway, W.C.2: Shaw and Sons Ltd., 7–9 Fetter Lane, E.C. Price: Thin Edn. 82s. 6d.; Thick Edn. 77s. 6d. net, postage 2s. 2d. extra.

Acts of Parliament continue, year by year, to add to the formidable amount of law which the magistrates' courts have to administer, and at the same time the volume of case law grows, so that each annual edition of *Stone* is awaited eagerly and received with relief.

Perhaps the most important statute included in this edition is the Licensing Act, 1953, which consolidated, with minor amendments, a number of earlier Acts, and in doing so cleared up some difficulties and obscurities. The learned editors have adopted the convenient practice of noting at the end of each section the earlier provision it replaces, and it is pointed out that the old case law still applies to the re-enactments. Among other subjects dealt with in 1953 Acts is road transport and lighting. In their preface the editors express regret that the matter is left in a confused state when the whole ground might have been covered in a single statute. Attention is called to the disappearance of much emergency legislation and to the enactment in permanant form of certain provisions. It is important to remember that the heavy penalties for breach of control under reg. 55 no longer apply.

As always, the preface is a valuable part of the book. It explains with perfect clearness and in the fewest possible words the precise effect of a selection of the one hundred decided cases added in this edition. There is a concise statement of the duties of the clerk in connexion with matrimonial cases that may go to the High Court on appeal, and there is a reference to the vexed question of the clerk retiring with the justices. Decisions on "taking into consideration" are the subject of a useful note.

Stone has no rival, and we cannot conceive of any magistrates' court being able to do without it. It will hold its position as long as it is so ably edited.

PERSONALIA

APPOINTMENTS

Mr. Henry Evans Jones, solicitor, of Portmadoc, Caern, and Blaenau Ffestiniog, Merioneth, has been appointed clerk to the magistrates of Edeyrnion, in the latter county. Admitted in 1936, Mr. Jones is clerk to the Ffestiniog urban district council, and coroner for Merioneth.

Mr. Thomas Alker, town clerk of Liverpool, has been elected president of the Society of Town Clerks in succession to Mr. A. N. Schofield of Southampton.

Mr. Geoffrey Edwards, second assistant clerk to Long Ashton, Somerset, justices, for the past three years, is to become assistant clerk to the Axbridge division justices.

Mr. Ewen Edward Samuel Montagu, Q.C., has been appointed deputy chairman of Middlesex Quarter Sessions.

Chief Inspector William Joseph Tomlin, who spent twenty-eight years in the Slough division, has been made a superintendant, and is to succeed Superintendent R. Read as chief of the Aylesbury division.

RETIREMENTS

Mr. A. J. Oliver is retiring after twenty-seven years as senior clerk to High Wycombe county court.

BOOKS AND PUBLICATIONS RECEIVED

Road Safety and the Law. Official Report of Conference Convened by the Pedestrians' Association for Road Safety, Mitre House, 44/45 Fleet Street, London, E.C.4. Price 1*s.*

The Law and Practice of Administration of Estates. By D. Mayerowitz, B.A., LL.B. Juta & Co., Ltd., Capetown and Johannesburg. 1954. £3 17*s.* 6*d.*, plus postage.

Report of Departmental Committee on Coastal Flooding. Cmd. 9165. H.M.S.O. 1954. 2*s.* 6*d.* net.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

Mr. G. H. Oliver (Ilkeston) asked the Secretary of State for the Home Department in the Commons why he had refused to advise Her Majesty to grant a free pardon to Maurice Edwin Ekins, 45, Southville Road, Bedford, in view of the fact that that man was convicted of permitting a person to ride his motor cycle while uninsured, an offence it was subsequently shown he did not commit and of which the Lord Chief Justice said that the court regretted that they could not grant any process because, in the opinion of the court, *certiorari* did not lie in a case of that sort, but that it was a proper case in which the facts should be submitted to the Secretary of State; and if, in view of those circumstances, he would not reconsider his decision.

The Secretary of State for the Home Department, Sir David Maxwell Fyfe, replied that it would be contrary to practice to state the reasons on which a decision with regard to the exercise of the Royal Prerogative of Mercy was based. He could only say that, after making full inquiry and consulting the Lord Chief Justice, he came to the conclusion that the facts were not such as would justify him in recommending the grant of a free pardon, and he could find no reason to modify that decision. In fairness to Mr. Ekins, he circulated in the Official Report a copy of the statement made by the Chairman of the Appeal Committee of the Buckinghamshire Quarter Sessions at the meeting of that Committee on December 28, 1953.

The statement was as follows:

This appeal was heard by the Committee on August 31 last. It was an appeal by Mr. Ekins against his conviction by the Stony Stratford Justices for having permitted a young man who was uninsured to ride his motor bicycle.

During the course of the hearing Mr. Ekins produced two documents (a receipt and an I.O.U.) in support of his contention that he had sold the motor bicycle before the other young man rode it. It was suggested in cross-examination that those documents were not genuine, and publicity was given to the suggestion. The Committee decided that, even assuming the documents to be genuine, they did not shake their view that there was no completed sale of the machine before the other young man rode it, and that the appellant's conduct otherwise amounted to "permitting" him to ride it. Accordingly they dismissed the appeal. At the same time they gave directions that the challenged documents should be sent to the Director of Public Prosecutions so that he might have further inquiries made to see whether they were genuine or not.

I thought I had made it clear at the time that we were not deciding that the documents were fraudulent but that they called for further inquiry. Through some misunderstanding publicity was given to the mistaken view that we had decided that the documents were fraudulent. The further inquiries made at the instance of the Director of Public Prosecutions established that they were not fraudulent, and in justice to Mr. Ekins (the appellant) publicity should now be given to the fact that any suggestion that he had been guilty of any offence in connexion with these documents has been shown to be mistaken.

There is one other matter which ought to be cleared up. The only question submitted to the Director of Public Prosecutions was whether further inquiries about the challenged documents would show them to be genuine or not. Most unfortunately publicity was given to the Director's words that "no criminal offence had been committed" as if they referred to the appeal in the road traffic case. Of course his decision was not referring to the road traffic offence at all, but simply to the question of whether the documents were fraudulent, and on that point, as I have already said, he found that they were not fraudulent.

CORONERS' INQUESTS

Mr. D. W. Wade (Huddersfield W.) asked the Secretary of State whether he would introduce legislation to amend or curtail the powers of a coroner to commit a person for trial on the findings of the coroner's jury.

Sir David replied that he could hold out no prospect of introducing legislation for that purpose.

Mr. Wade: "Without wishing to cast any reflection upon coroners as such, may I ask the right hon. and learned Gentleman if he agrees

that there are many strange anomalies in the existing system of coroners' inquests? Would he also agree that there may be very real injustice done to a man named in the verdict of a coroner's jury who may thereby be committed for trial on as serious a charge as murder or manslaughter, and will he have regard to the fact that the ordinary procedure of our courts of law is not followed and the ordinary rules of evidence, which are designed to safeguard an accused person, do not apply at coroners' inquests?"

Sir David: "I think the hon. Member has a very serious point. Quite obviously, what was stated by the Wright Committee in 1936 has much importance, and I shall consider the matter, but it would not have been right to have held out the prospect of legislation at the moment. I will carefully consider what the hon. Gentleman says."

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, June 22

SLAUGHTER OF ANIMALS (AMENDMENT) BILL, read 2a.
PROTECTION OF ANIMALS (ANAESTHETICS) BILL, read 2a.

THE LAW AND THE ARTS

The present Earl Russell has pointed out, in *Marriage and Morals* (1929), that it is permissible to use in print the word *coitus* but obscene to employ the monosyllabic Anglo-Saxon synonym. That remark aptly sums up the present legal position, which has been causing concern to a number of correspondents to *The Times*. Because of its topicality we make no apology for returning to this subject today.

The meaning of the word "obscene" in English law has always been decidedly ambiguous. It is believed to be derived from the Latin prefix *ob* or *obs*—"on account of"— and *caenum* —"filth"; the primary meaning of *obscaenus* was "inauspicious"; but in the Classical Age it came to mean "repulsive" or "disgusting," and in particular "indecent" or "lewd." It is this last meaning that has been generally applied to the word by the English Courts, with special emphasis upon sexual impurity. This obsession with one particular form of offensiveness is inherent in the Northern European and American attitude to life— an obsession which reached its high-water mark in the days of the Puritans. While it cannot be denied that the treatment of sexual matters in certain ways can be highly objectionable to normal men and women, there are many other subjects which are equally repellent—notably those involving descriptions of cruelty, brutality and mob violence. It is strange to observe that books dealing almost exclusively with these themes escape condemnation altogether, while prosecutions of publishers and authors for obscenity of the sexual variety are rife. It cannot be denied that publications of the former type are no less anti-social in their results than those of the latter; in France, as one writer to *The Times* has pointed out, they would be equally amenable to the criminal law.

Sociologists might find an interesting subject for speculation in this strange anomaly. It is almost as if there were some throwback to the dark legend of the Phrygian deity Attis, whose worship spread in historical times throughout the Roman Empire. As Frazer has pointed out, Attis belongs (with Osiris and Adonis) to a group of personages whose story symbolizes suffering, death, resurrection and deification; but Attis differs from the others in the strangeness of his mortal end. According to the legend he was stricken with a frenzy of disgust at the potentialities of his manhood and emasculated himself under a pine tree, at the foot of which violets sprang from his blood. This act of self-sacrifice was requited by the double boon of incorruptibility of the body and immortality of the soul. May it not be that the traditional cults of celibacy, monasticism and the mortification of the flesh derive from this curious myth?

For nearly twenty centuries our vaunted western civilization has tolerated the grievous inhumanity of man to man. The stake and the rack were instruments of judicial punishment in England until well into the eighteenth century. Traitors were still castrated and disembowelled alive until 1814, and drawing and quartering were not legally abolished before 1870—well within living memory. Slavery remained lawful in the United States of America until 1865. The treatment of the insane, until the 1850s, was brutal and inhuman to the last degree. Amid these and other horrors, all countenanced by ecclesiastical, legal and political authority, sexual irregularity—at any rate among women—was visited with the most savage legal and social penalties. It is an extraordinarily paradoxical background to the present controversy.

It must be clear from this and other evidence that the operation of the censorship does not depend merely upon the anti-social effects of literature classed as obscene. For one thing (as Earl Russell has implied) archaic language, established literary reputation, euphemism or symbolical disguise are all protective factors. There is no logical reason why this should be so; but if one considers the question solely from a literary standpoint one is almost driven to accept the conclusion of Oscar Wilde:

> "There is no such thing as a moral or immoral book. Books are well written or badly written."

We should be reluctant to say a word against any steps taken to keep down the output of pornographic trash which helps to degrade public morality (in the broadest sense of the word); but we support the widespread demand for an inquiry into the working of the law because its operation is often arbitrary—sometimes too wide and sometimes too narrow—and based excessively on ignorance, emotion and outworn tradition. A new criterion seems to be required, based upon social and aesthetic ideals rather than upon personal prejudice and improvization. The test, we submit, should be the value of the book *as a whole* (and not in isolated passages) as a contribution to the upholding of high literary standards and a compassionate attitude to humanity. The *Books of Genesis*, *Judges* and *Kings* contain episodes which, if expressed in modern language in a newly-published work, would lead to their suppression; the *Song of Songs* has a highly erotic content; the Oresteian plays of Aeschylus deal with incestuous relationships and matricide; some of Chaucer's *Canterbury Tales* describe "improper" situations, and some of Shakespeare's Sonnets treat of homosexuality. Ibsen's *Ghosts* includes in its theme the subject of venereal disease. Nobody would think of suppressing any part of these famous works, since each of them, considered as a whole, is a very great piece of literature, lofty in style, noble in conception and written for the purpose and having the effect (in Aristotle's words) of "purging the emotions." Similar considerations apply to all the arts. There are paintings of Rubens and Brueghel the subjects of which, executed in a spirit of bawdiness by a second-rate artist, would be gross in the extreme; but in the hands of these masters they are great in conception, design, colour and form. Wagner's *Ring* deals in part with the subject of incestuous adultery; but this is incidental to an overriding theme of superhuman grandeur, against a background of the most magnificent orchestration that any composer has achieved. So much of the literature, painting and music produced today has, on the other hand, little or no artistic merit whatsoever; it is produced with the sole object and effect of titillating, not purging, the baser emotions; and it is to this that the law should direct its attention, whether the subject-matter be sex, gangsterism, cruelty to the helpless or atrocious crime.

A.L.P.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Burial Grounds—*Nonconformist ground still in use—Contribution to expenses.*

The local Congregational Church has a burial ground for members of the church and others. The burial ground has had some interments but, owing to passage of time and lack of attention, is in a rather dilapidated condition, and the church authorities are wondering whether it would be possible either to get some financial assistance for the upkeep of the burial ground or, if not, whether the local authority could be called upon either to maintain it or make a contribution towards its maintenance. CONINTER.

Answer.

We gather that burials have not been discontinued. So long as the ground remains in use, there is no provision under which the local authority can maintain it, or contribute towards its maintenance by its present owners (presumably the trustees of the Congregational Church).

2.—Highway—*Footpath—Temporary and permanent closing.*

We have been consulted by clients who occupy land which was formerly occupied by the War Department under the Defence Regulations for the purposes of an anti-aircraft gun site. In 1940 the War Department sealed a public footpath which crossed the site. When the land was de-requisitioned in 1944, the barricades were not taken down and remain in place at the present time. No person has made any claim to use the footpath since 1940. In fact, the schedule of public footpaths, prepared by the local parish council, did not include this public footpath, but we understand that the county council have included the same on their plan.

A point has now arisen with regard to another portion of the footpath which has caused the rural district council to investigate the position. The rural district council and the parish council concerned are agreed that the footpath no longer serves any useful purpose, and are prepared to receive an application for the closure of the footpath, but they say that they are unable to do so until our clients have opened the same.

We ourselves appreciate the delay in obtaining a closure order under the provisions of the National Parks and Access to the Countryside Act, 1949, and wonder whether you can suggest to us any means whereby we may get our clients over their present difficulty. PERIC.

Answer.

This footpath remains a highway unless it is lawfully stopped up or extinguished or diverted. We assume that the War Department only temporarily stopped up the way, and this temporarily lawful stopping up has now ceased. The way is now merely obstructed, and there is no reason why an application for closure should not be entertained if the way has been obstructed by natural means, *e.g.*, undergrowth, or means part artificial and part natural, or wholly artificial, and acquiesced in because the path was not used.

3.—Husband and Wife—*Bigamous marriage alleged—Onus of proof.*

At the hearing of a summons for separation under the Summary Jurisdiction (Married Women) Act, Mrs. A produced a certificate of marriage issued by the local registrar of marriages. She was not cross-examined as to the validity of this marriage, but Mr. A on oath stated that Mrs. A had been married to another man when she went through the form of marriage with him. Mrs. A was given an opportunity to call evidence to rebut this statement, but confirmed that some twenty years ago she had married a Mr. B, but after two years she left him and had not heard of him since. She stated that she disclosed this fact to the registrar of marriages and made a declaration before the marriage ceremony was performed. It is also admitted that at no time has there been application to presume the death of Mr. B.

(*a*) Is this second marriage a valid marriage sufficient to justify an order being made?

(*b*) On whom is the onus of proving that it is valid?

(*c*) Could you tell me of any statutory rule or order which enables a marriage in such circumstances to be performed?

I would refer you to *Re Peate* (*dec'd.*) [1952] 2 All E.R. 599. SEPARIM.

Answer.

(*a*) This depends on the evidence. How long had Mr. B been absent when she married Mr. A? The justices will have to find whether it is sufficiently proved that Mr. B can reasonably be presumed to have died before the second marriage ceremony.

(*b*) If the wife has not raised the presumption of death by seven years' absence before the second marriage, etc. (*cf.* Matrimonial Causes Act, 1950, s. 16) the onus is upon her, *Ivett* v. *Ivett* (1930) 94 J.P. 237. The justices are entitled to consider all the evidence at the time of the application: *Hogton* v. *Hogton* (1933) 97 J.P. 303. It is not stated when the marriage with Mr. A took place.

(*c*) If proper notice has been given, with the necessary particulars and the declarations required by s. 44 (3) of the Marriage Act, 1949, made, it appears that the superintendent registrar can lawfully solemnize the marriage under s. 45.

The case cited confirms us in our opinion that the real question is whether the justices are satisfied that the evidence now addressed is sufficient to entitle them to presume that at the time of the second marriage the first husband was dead.

4.—Husband and Wife—*Maintenance of children—Divorce decree giving custody to wife—Can justices make order for maintenance under Guardianship of Infants Acts or enforce an existing order for maintenance.*

(*a*) A married woman obtained a maintenance order and the legal custody of the child of the marriage in the magistrates' court in 1946. Later a divorce was obtained and the custody of the child given to the wife by the High Court. In 1949, after the divorce, the 1946 order was revoked and an order was made under the Guardianship of Infants Acts, 1886-1925, for the maintenance of the child by the magistrates' court, but with the custody clause struck out.

In view of the wording of s. 3 (2) of the Guardianship of Infants Act, 1925, have magistrates' courts jurisdiction to make an order for maintenance only, once the High Court has awarded custody of a child?

(*b*) What is the position when there is a magistrates' court order granting custody *and* maintenance, and subsequently—without that order being revoked or discharged—the High Court makes an order granting custody only of the child? Would this make any difference whether the original magistrates' order was under the Separation and Maintenance Acts or Guardianship of Infants Acts? S. BIMP.

Answer.

(*a*) The words of s. 3 (2), *supra*, seem to indicate that any order for maintenance must be made by the court which makes the order as to custody. The order for custody (which was not under the Guardianship of Infants Acts) has been revoked and superceded by the High Court order and we do not think the justices should now make an order for maintenance, but should refer the parties to the High Court.

(*b*) We think that in either case the order for maintenance might remain in force if there had been no application for maintenance in the High Court proceedings. Possibly an inquiry might be addressed to the High Court, *see* a note at 114 J.P.N. 426. It is always better for the justices to refrain from entertaining an application if there is any question of the High Court being seized of the matter.

5.—Licensing—"*Party organized for gain*" *on licensed premises—Whether prohibited by s.* 149 *of Licensing Act*, 1953.

An interesting point has recently been raised before my bench in connexion with the interpretation of s. 149 (1) and its proviso, of the Licensing Act, 1953.

The facts are as follows:

A is the licensee of a restaurant to which he has an annexe suitable for public dances and other functions. The whole of the premises are licensed for the consumption of intoxicating liquors.

For some considerable period A has applied to the justices at the end of each month for an extension of one-and-a-half hours on all Saturdays on the occasion of dances, organized by himself, for the ensuing month.

In view of the wording of the above quoted section, the police take the view that these applications should not be granted, on the grounds that the dances (or, in the words of the Act, the party) are organized for gain.

It was contended on behalf of the licensee that this particular section was aimed at what are known as "bottle parties" (*see* footnote in the latest edition of *Paterson*), and was not intended to apply to the extensions which had been regularly granted in the past to the licensee. It was admitted by the police that the dances had been well conducted and they had no complaint on that score.

It was also pointed out on behalf of A that there are licensed premises throughout the country, and particularly at seaside resorts, where extensions beyond the permitted hours are regularly granted for the benefit of holiday makers irrespective of the fact that "gain" may possibly accrue to the licensee. The proviso to s. 149 (1) is to my mind very ambiguous. For instance, how would you interpret the words "anything done"? And again, does the concluding expression "for

which an *occasional* licence has been granted " control the whole of the proviso, *i.e.*, an *occasional* licence as distinct from an extension?

NEPHELE.

Answer.

We think, with respect, that our correspondent and the police in his district have read into s. 149 of the Licensing Act, 1953, complications which the section does not contain. We interpret the proviso to subs. (1) of the section as meaning that " anything done " at a party (even if organized for gain) is not caught by the prohibition contained in the section if the particular party (*a*) takes place on licensed premises ; or (*b*) takes place at a canteen, mess or the premises of a registered club as part of the activities of that canteen, mess or club ; or (*c*) takes place at any premises where an occasional licence has been granted on the occasion of the party. Therefore, as the premises mentioned by our correspondent are on-licensed premises they are not caught by the subsection and there is no reason, on this account, why a special order of exemption from the provisions as to permitted hours should not be granted under s. 107 of the Licensing Act, 1953.

5.—Licensing—*Registered club on licensed premises.*

One or two licensees in this county are giving consideration to the question of having registered clubs on their licensed premises.

The clerk to the justices is of the opinion (and I think rightly) that *he* can do nothing about it.

In view of s. 95 (*f*) of the Licensing Consolidation Act, 1910, I am of the view that it is not permissible for the licensing justices to agree to the registration of " clubs " on licensed premises.

If my memory serves me rightly, the Royal Commission which preceded the Licensing Act of 1921 expressed the view that the period of disqualification should be extended to five years from the date of the closing of premises as licensed premises in place of the one year from the date of refusal of the licence as at present.

OPREM.

Answer.

Our correspondent does not make it clear whether he is referring to premises which are licensed premises or premises which were licensed premises until recently. Section 95 (1) (*f*) of the Licensing (Consolidation) Act, 1910 (now repealed and re-enacted in s. 144 (1) (*f*) of the Licensing Act, 1953), has no bearing on the matter unless the question relates to the registration of a club on premises in respect of which a justices' licence has been forfeited or renewal refused within the preceding twelve months. The Report of the Royal Commission on Licensing has not, in this matter, been implemented by legislation.

The clerk to the justices, in any event, has not the power to refuse to accept a return submitted for the registration of the club (*Ashton* v. *Wainwright* (1936) 100 J.P. 195) : if one of the grounds mentioned in s. 144 (1) of the Licensing Act, 1953, exists, complaint should be made to a magistrates' court as provided by that section for the club to be struck off the register.

There is nothing in law to prevent a club being registered as having its address on licensed premises and it is difficult to guess what advantage a licence holder seeks to gain from such a proceeding—he naturally will prefer to sell his own intoxicating liquor rather than assist in the supply of that which belongs to the club : and the situation offers so many opportunities for abuse that questions affecting his licence may arise when he applies for renewal. Further than this, on the information contained in the question, we are unable to go.

6.—Local Government Act, 1948, s. 113—*Travelling expenses—Councillor residing in borough but travelling from outside.*

A commercial traveller, whose residence is in a small borough within three miles of the municipal buildings where all the council meetings are held, is a member of the borough council. The head office of the business he serves is about fifteen miles away from the borough but, being a traveller, his work takes him away every day, sometimes to the extent of a hundred miles from the borough. When he attends meetings of the borough council and of its committees can he claim travelling and subsistence allowances for returning to the borough from whatever place he happens to be in on business and, if not, would it be legal for him to claim these expenses from the head office of the company which he serves fifteen miles away from the borough : s. 113, Local Government Act, 1948.

COSIMERC.

Answer.

Neither from the head office nor from the place from which he travels. Provisos (*a*) and (*c*) to subs. (1) knock out all claim.

7.—Private Street Works Act, 1892—*Error in estimate—Estimated cost not exceeded.*

Provisional apportionment notices were served under the above Act based on an estimate prepared by the surveyor. During the month in which the documents were on deposit, the surveyor met a committee of the frontagers who, having heard his explanation as to how the cost was arrived at and that there was every likelihood that the final cost would be less than that estimated, decided not to raise any objections. After the period for objections had passed, tenders for the work were invited by public advertisement. During the tender period the surveyor discovered that there had been an arithmetical error in the computation of quantities and that certain items should be increased in quantity by about 50 *per cent.* The tenderers were then asked to base their tenders on revised quantities and the matter was left to see how the tender price compared with the provisional apportionments. Upon the tenders being opened, it was found that the lowest tender was within £78 of the provisional apportionments, *i.e.*, £3,541 against a provisional apportionment of £3,463. As this is well within the 15 *per cent.* mentioned in s. 12 and as the estimate included a contingency sum of £250, it would appear that the council could proceed in the ordinary way. The surveyor, therefore, has not prepared a revised estimate of cost in accordance with s. 11. Even if he did so, his quantities would be increased, but in view of the tender prices his price would be reduced, with the result that the total estimated cost would not exceed the provisional apportionments.

I have, however, received communications from a committee of the frontagers asking for their rights of objection to be restored to them as a result of the error in the estimate. They contend that the increase in the quantities will absorb the savings which the surveyor anticipated would accrue to them when the works came to be carried out. Your advice on the following points is sought :

(1) Can the frontagers' rights of objection be restored without recourse to the service of amended provisional apportionments—in other words, starting *de novo* ?

(2) In view of the discovery of the error in quantities in the surveyors' estimate, which on the face of it should increase the provisional apportionments but in actual fact will not do so, are the council under any legal obligation to amend the estimates in accordance with s. 11, or at all ?

(3) What is the meaning of the word "estimate" in ss. 7 (*c*) and 11, and particularly when read with ss. 6 (2) (*b*)—" estimate of the probable expenses "—and 12 (2) (*a*)—" exceeded the estimated expenses " ? Does it mean the estimated cost only, or has it the wider significance of including all the calculations which are necessary to arrive at that estimated cost ?

(4) If the council do not serve any further notices and proceed to make up the road, can the frontagers raise any objections in any way at a later stage?—they apparently cannot under s. 12. (I have in mind a reference back to s. 7 (*c*)).

(5) Generally.

P. CLEVE.

Answer.

(1) No, in our opinion.

(2) No.

(3) The estimate of the probable expenses means the probable cost of the works, including the commission provided for by s. 9 (2) of the Act ; *see* the schedule to the Act. It is a sum of money, not the quantities and other particulars involved in calculating that sum. But note that ss. 6, 7, and 11 require other things, besides an estimate, and *see* the schedule as to those things.

(4) No, in our opinion ; but they probably will and the resultant publicity may be unpleasant.

(5) In the circumstances, it would be better to amend and serve the frontagers again.

8.—Water Act, 1945—*Discontinuance of supply—Charge for disconnecting.*

What charges, if any, may be levied on a consumer in respect of the discontinuance of water supplied to him by a local authority under the provisions of the Public Health Act, 1936 ? By virtue of ss. 40 and 41 of sch. 3 to the Water Act, 1945 (made applicable to undertakers supplying water under the Public Health Act, 1936, by s. 31 and sch. 4 thereof) an owner or occupier of any premises desiring to have a supply of water for domestic purposes is bound to lay a supply pipe to the boundary of his premises, and thereafter the supplying authority must lay a communication pipe from the main in the highway and connect the same to the supply pipe. The expenses reasonably incurred by them in executing the work shall be repaid to them by the person to whom the supply is made. In the case of a notice of discontinuance of supply, it is the practice for the authority to break up the road under which the communication pipe is laid and disconnect this pipe, thereafter sealing the main at the former junction with the communication pipe. This is to ensure that the disused communication pipe may not cause an added potentiality of leakage and waste. While it is appreciated that the communication pipe vests in the local authority, it is felt that the cost of carrying out the necessary work of excavation and disconnexion of the communication pipe should be borne by the person giving the notice of discontinuance of supply, but I can find no statutory provision as to this.

PADI.

Answer.

We do not know of any statutory power to make this charge, which in the absence of such power must be illegal.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. *(Cond.)*

SALOP COUNTY COUNCIL

Children's Committee

APPLICATIONS are invited for the resident post of House Father at "The Mount" Children's Home, Haygate Road, Wellinton.

This establishment provides a Home for thirty-six boys aged five–sixteen years and the duties of the person appointed will be to assist the Superintendent in providing for the welfare of these children and the upkeep of the establishment. He will be expected to take an active interest in their leisure time activities and some experience in organising activities and hobbies would be an advantage.

Salary: £395×£15—£455 per annum, less £108 per annum for board, lodging and laundry. Superannuable post.

Application forms and any further particulars may be obtained from the undersigned, to whom completed forms should be returned.

JOAN CLARKE,
Children's Officer.

18/20 Castle Street,
Shrewsbury.

BOROUGH OF BACUP

Appointment of Town Clerk

APPLICATIONS are invited from Solicitors with previous Local Government experience for the appointment of Town Clerk, at a commencing salary of £1,140 per annum, rising by annual increments of £50 to £1,340 per annum. The Recommendations regarding salary and conditions of service of the Joint Negotiating Committee for Town Clerks and District Council Clerks will apply.

The appointment will be subject to three months' notice on either side and to the provisions of the Local Government Superannuation Acts. The successful candidate will be required to pass a medical examination.

Assistance will be given to the successful candidate in the provision of housing accommodation, if required.

Applications, stating age, experience and qualifications and the names of not more than three persons to whom reference can be made, must reach the undersigned not later than Monday, July 19, 1954. Candidates should state whether they are related to any member or senior officer of the Council, and canvassing in any form will disqualify.

E. HUTCHINSON,
Town Clerk.

Stubbylee Hall,
Bacup.

Amended Advertisement.

COUNTY BOROUGH OF BARROW-IN-FURNESS

Appointment of Senior Assistant Solicitor

APPLICATIONS are invited for the permanent appointment of Senior Assistant Solicitor in the Town Clerk's Department at a salary in accordance with A.P.T. Grade X (£920 rising to £1,050).

Forms of application and conditions of appointment obtainable from the undersigned, to be returned not later than Wednesday, July 14, 1954.

LAWRENCE ALLEN,
Town Clerk.

Town Hall,
Barrow-in-Furness.

Amended Advertisement

COUNTY BOROUGH OF WOLVERHAMPTON

Appointment of Third Assistant Solicitor

APPLICATIONS are invited for the above appointment on Salary Grade A.P.T. VII (£735–£810). Appointment is subject to National Conditions of Service, to Superannuation Acts, and to Medical Examination, and is determinable by one month's notice. March and June Finalists will be considered.

Applications, stating age, experience and educational qualifications, and giving names of two referees, to reach me by Monday, July 19.

A. G. DAWTRY,
Town Clerk.

Town Hall,
Wolverhampton.

BOROUGH OF NEWARK-ON-TRENT

Deputy Town Clerk and Deputy Clerk of the Peace

APPLICATIONS invited for above superannuable appointment. Salary Grades VII to IX (£735 to £960). Housing accommodation available; two months' notice either side.

Applications, including details of experience, with particular reference to Conveyancing and Quarter Sessions work and two testimonials, to me by July 14.

J. H. M. GREAVES,
Town Clerk and Clerk of the Peace.

Municipal Buildings,
Newark-on-Trent.
June 29, 1954.

CITY OF PLYMOUTH

Appointment of Conveyancing Clerk

Town Clerk's Office

APPLICATIONS are invited for the above appointment at a salary in accordance with Grade A.P.T. II (£520 per annum rising by annual increments of £15 to £565 per annum). The appointment is superannuable and the successful applicant will be required to pass a medical examination. Previous experience in a Local Government Office is not essential. Applications, giving details of experience in a solicitor's office and particularly conveyancing work, and particulars of present and previous employment together with the names of two referees, must reach me before Tuesday, July 20.

Dated June 29, 1954.

S. LLOYD JONES,
Town Clerk.

Pounds House,
Peverell,
Plymouth.

CITY AND COUNTY OF KINGSTON UPON HULL

Appointment of Whole-time Female Probation Officer

THE Probation Committee for the above city invite applications for the appointment of a Whole-time Female Probation Officer.

Applicants, other than serving Probation Officers, must not be less than twenty-three nor more than forty years of age.

The appointment will be subject to the Probation Rules and the salary paid will be according to the Scale so prescribed.

The successful applicant will be required to pass a medical examination and the salary will be subject to superannuation deductions.

Applications, stating age, present position, qualifications and experience, together with copies of two recent testimonials, must reach the undersigned not later than July 17, 1954.

T. A. DOUBLEDAY,
Secretary to the Probation Committee.

Law Courts,
Kingston upon Hull.

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